

MONTANA LEGISLATIVE HISTORY

Chapter 422 19 97

Bill H 166 S _____ Original bill & history X C

H. Committee on Appropriations

Hearing Date(s) Feb 19 ☒ C

Mar 24 ☒ C

_____ C

_____ C

Date Out Mar 24 ☒ C

S. Committee on Finance & Claims

Hearing Date(s) Apr 10 ☒ C

_____ C

_____ C

_____ C

Apr 10 ☒ C

Did this bill originate in an interim committee? _____ Yes _____ No

Committee _____

Report _____

1997 LEGISLATIVE HISTORY

The 1997 Montana Legislature has dramatically changed the nature of the legislative minutes. Specifically, the minutes from House committees are extremely sparse in content, offering no substantive information from which to glean legislative intent. The Senate committees' minutes are somewhat fuller in content. Exhibits available from the State Law Library (which may include written statements, attendant information, roll call votes, roll call attendance, a list of public members present, specific action taken on legislative bills, etc.) are included with this request. For information on other exhibits, contact the Montana Historical Society Archives at 444-4774. Exhibits may also be purchased on a CD-ROM from the Montana Legislative Council (444-3064).

Just as in the 1995 legislative session, the House and Senate hearings were recorded. The Historical Society is the depository for the tapes. For information on accessing the tapes, call the archives at 444-4774.

If you have concerns over the format of the 1997 legislative minutes, it is suggested that you contact your state legislators.

HB 165 INTRODUCED BY TUSS

LC0194 DRAFTER: NISS

PROVIDE FOR REVISION OF CONTROLLED SUBSTANCES SCHEDULES
BY REQUEST OF DEPARTMENT OF COMMERCE

1/01	INTRODUCED		
1/03	FISCAL NOTE REQUESTED		
1/06	FIRST READING		
1/06	REFERRED TO BUSINESS & LABOR		
1/10	FISCAL NOTE RECEIVED		
1/13	HEARING		
1/13	FISCAL NOTE PRINTED		
1/15	COMMITTEE REPORT—BILL PASSED AS AMENDED		
1/17	2ND READING PASSED	91	6
1/18	3RD READING PASSED	90	6
	TRANSMITTED TO SENATE		
1/20	FIRST READING		
1/20	REFERRED TO BUSINESS & INDUSTRY		
2/06	HEARING		
2/08	COMMITTEE REPORT—BILL CONCURRED		
3/03	2ND READING CONCURRED	49	0
3/04	3RD READING CONCURRED	48	0
	RETURNED TO HOUSE		
3/10	SIGNED BY SPEAKER		
3/10	SIGNED BY PRESIDENT		
3/11	TRANSMITTED TO GOVERNOR		
3/20	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 113		
	EFFECTIVE DATE: 03/20/97		

HB 166 INTRODUCED BY ZOOK, ET AL.

LC0065 DRAFTER: PETESCH

REVISE AND CLARIFY STATUTES CONTAINING STATUTORY
APPROPRIATIONS AND DEDICATIONS OF REVENUE
BY REQUEST OF LEGISLATIVE FINANCE COMMITTEE

1/01	INTRODUCED		
1/06	FIRST READING		
1/06	REFERRED TO APPROPRIATIONS		
2/19	HEARING		
3/25	COMMITTEE REPORT—BILL PASSED AS AMENDED		
3/26	2ND READING PASSED AS AMENDED	87	11
3/27	3RD READING PASSED	93	7
	TRANSMITTED TO SENATE		
3/28	FIRST READING		
3/28	REFERRED TO FINANCE & CLAIMS		
4/10	HEARING		
4/11	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
4/14	2ND READING CONCURRED AS AMENDED	50	0
4/15	3RD READING CONCURRED	49	1
	RETURNED TO HOUSE WITH AMENDMENTS		
4/16	2ND READING AMENDMENTS CONCURRED	88	11
4/17	3RD READING CONCURRED AS AMENDED	87	11
4/21	SIGNED BY SPEAKER		
4/24	SIGNED BY PRESIDENT		
4/25	TRANSMITTED TO GOVERNOR		

4/29 SIGNED BY GOVERNOR
 CHAPTER NUMBER 422
 EFFECTIVE DATE: 04/29/97—SECTION 4
 EFFECTIVE DATE: 07/01/97—SECTIONS 1-3, 5-26, 28-65, 66(1),
 67 & 68
 EFFECTIVE DATE: 07/01/2008—SECTIONS 27 & 66(2)

HB 167 INTRODUCED BY MCCULLOCH *LC0228 DRAFTER: FOX*

IMPOSE A 0.1 PERCENT LOCAL VEHICLE TAX FOR THE FUNDING OF YOUTH
 COURT EXPENSES

BY REQUEST OF JUVENILE JUSTICE & MENTAL HEALTH STUDY
 COMMISSION

1/02 INTRODUCED
 1/03 FISCAL NOTE REQUESTED
 1/06 FIRST READING
 1/06 REFERRED TO CORRECTIONS SELECT COMMITTEE
 1/14 FISCAL NOTE RECEIVED
 1/15 FISCAL NOTE PRINTED
 2/18 HEARING
 2/18 TABLED IN COMMITTEE
 4/05 MISSED DEADLINE FOR 71ST DAY TRANSMITTAL
 DIED IN COMMITTEE

HB 168 INTRODUCED BY R. JOHNSON *LC0207 DRAFTER: MACMASTER*

REVISE CHILD SUPPORT LAWS

BY REQUEST OF DEPARTMENT OF PUBLIC HEALTH & HUMAN SERVICES

1/02	INTRODUCED		
1/03	FISCAL NOTE REQUESTED		
1/06	FIRST READING		
1/06	REFERRED TO JUDICIARY		
1/13	FISCAL NOTE RECEIVED		
1/14	FISCAL NOTE PRINTED		
1/21	HEARING		
1/25	COMMITTEE REPORT—BILL PASSED AS AMENDED		
1/28	2ND READING PASSED -	92	7
1/29	3RD READING PASSED	92	8

	TRANSMITTED TO SENATE		
1/30	FIRST READING		
1/30	REFERRED TO JUDICIARY		
3/07	HEARING		
3/08	COMMITTEE REPORT—BILL CONCURRED		
3/13	2ND READING CONCURRED AS AMENDED	50	0
3/14	3RD READING CONCURRED	49	0

	RETURNED TO HOUSE WITH AMENDMENTS		
4/09	2ND READING AMENDMENTS CONCURRED	92	5
4/11	3RD READING CONCURRED AS AMENDED	91	6
4/20	SIGNED BY SPEAKER		
4/25	SIGNED BY PRESIDENT		
4/25	TRANSMITTED TO GOVERNOR		
5/02	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 482		
	EFFECTIVE DATE: 05/02/97		

House Bill No. 166

Introduced By zook, grosfield

By Request of the Legislative Finance Committee

A Bill for an Act entitled: "An Act generally revising and clarifying statutes containing statutory appropriations and dedications of revenue; removing the statutory appropriation of certain funds; providing for the deposit of certain funds in the state general fund rather than the special revenue fund; amending sections 2-15-501, 2-17-105, 10-2-416, 10-4-301, 10-4-302, 15-1-501, 15-30-153, 15-36-324, 15-38-106, 15-65-121, 15-70-125, 16-1-306, 16-1-404, 16-1-406, 16-1-409, 16-11-119, 16-11-206, 17-1-508, 17-5-403, 17-5-404, 17-5-405, 17-5-408, 17-5-804, 17-6-201, 17-7-502, 19-19-205, 20-3-108, 20-9-361, 32-1-537, 39-71-503, 39-71-531, 39-71-533, 39-71-2354, 39-71-2503, 39-71-2504, 49-2-510, 50-5-112, 50-5-113, 50-5-232, 50-40-206, 53-6-150, 53-19-310, 53-19-311, 53-24-108, 60-2-220, 60-11-120, 60-11-123, 61-3-509, 61-5-121, 75-5-1108, 75-6-214, 75-10-954, 76-12-123, 77-2-323, 77-2-328, 77-5-305, 82-11-136, 85-1-220, 90-3-301, 90-7-220, and 90-7-221, MCA; repealing sections 10-2-417, 15-1-111, 15-31-408, 15-65-122, 15-65-131, 16-1-408, 16-1-410, 39-71-534, 60-11-122, and 77-5-306, MCA; and providing effective dates."

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-15-501, MCA, is amended to read:

"2-15-501. (Temporary) General duties. It is the duty of the attorney general:

- (1) to prosecute or defend all causes in the supreme court in which the state or any officer of the state in the officer's official capacity is a party or in which the state has an interest;
- (2) to represent the state in all bankruptcy proceedings in which the state's interest may be affected;
- (3) after judgment in any of the causes referred to in subsections (1) and (2), to direct the issuing of a process as may be necessary to carry the judgment into execution;
- (4) to keep a register of all cases prosecuted or defended by the attorney general. The register must be open to the inspection of the public during business hours. The attorney general shall deliver the register to the attorney general's successor in office.
- (5) to exercise supervisory powers over county attorneys in all matters pertaining to the duties of their offices and from time to time require of them reports as to the condition of public business entrusted to their charge. The supervisory powers granted to the attorney general by this subsection include the power to order and direct county attorneys in all matters pertaining to the duties of their office. The county attorney shall, when ordered or directed by the attorney general, promptly institute and diligently prosecute in the proper court and in the name of the state of Montana any criminal or civil action or special proceeding.
- (6) when required by the public service or directed by the governor, to assist the county attorney of any county

in the discharge of the county attorney's duties or to prosecute or defend appropriate cases in which the state or any officer of the state in the officer's official capacity is a party or in which the state has an interest;

(7) to give an opinion in writing, without fee, to the legislature or either house of the legislature, to any state officer, board, or commission, to any county attorney, to the city attorney of any city or town, or to the board of county commissioners of any county of the state when required upon any question of law relating to ~~their~~ the respective offices. The attorney general shall give the opinion within 3 months following the date that it is requested unless the attorney general certifies in writing to the requesting party that the question is of sufficient complexity to require additional time. If an opinion issued by the attorney general conflicts with an opinion issued by a city attorney, county attorney, or an attorney employed or retained by any state officer, board, commission, or department, the attorney general's opinion is controlling unless overruled by a state district court or the supreme court.

(8) to discharge the duties of a member of the board of examiners and state board of land commissioners;

(9) to deposit in the state general fund amounts recovered on behalf of the state in antitrust or consumer protection actions;

~~(9)~~(10) to perform all other duties as required by law. (Terminates June 30, 1997--sec. 4, Ch. 196, L. 1995.)

2-15-501. (Effective July 1, 1997) General duties. It is the duty of the attorney general:

(1) to prosecute or defend all causes in the supreme court in which the state or any officer of the state in ~~his~~ the officer's official capacity is a party or in which the state has an interest;

(2) after judgment in any of the causes referred to in subsection (1), to direct the issuing of a process as may be necessary to carry the judgment into execution;

(3) to keep a register of all cases prosecuted or defended by ~~him, which~~ the attorney general. The register must be open to the inspection of the public during business hours ~~be open to the inspection of the public~~. The attorney general ~~must~~ shall deliver the register to ~~his~~ the attorney general's successor in office.

(4) to exercise supervisory powers over county attorneys in all matters pertaining to the duties of their offices and from time to time require of them reports as to the condition of public business entrusted to their charge. The supervisory powers granted to the attorney general by this subsection include the power to order and direct county attorneys in all matters pertaining to the duties of their office. The county attorney shall, when ordered or directed by the attorney general, promptly institute and diligently prosecute in the proper court and in the name of the state of Montana any criminal or civil action or special proceeding.

(5) when required by the public service or directed by the governor, to assist the county attorney of any county in the discharge of ~~his~~ the county attorney's duties or to prosecute or defend appropriate cases in which the state or any officer of the state in ~~his~~ the officer's official capacity is a party or in which the state has an interest;

(6) to give ~~his~~ an opinion in writing, without fee, to the legislature or either house of the legislature, to any state officer, board, or commission, to any county attorney, to the city attorney of any city or town, and to the board of county commissioners of any county of the state when required upon any question of law relating to ~~their~~ the respective offices. ~~He~~ The attorney general shall give ~~any such~~ the opinion within 3 months following the date ~~that~~ it is requested unless ~~he~~ the attorney general certifies in writing to the requesting party that the question is of sufficient complexity to require additional time. If an opinion issued by the attorney general conflicts with an opinion issued by a city attorney, county attorney, or an attorney employed or retained by any state officer,

board, commission, or department, the attorney general's opinion is controlling unless overruled by a state district court or the supreme court.

(7) to discharge the duties of a member of the board of examiners and state board of land commissioners;

(8) to deposit in the state general fund amounts recovered on behalf of the state in antitrust or consumer protection actions;

~~(8)~~(9) to perform all other duties as required by law."

Section 2. Section 2-17-105, MCA, is amended to read:

"2-17-105. Insurance on state buildings -- use of proceeds -- building replacement. (1) ~~Moneys~~ Money received by the state as indemnification for damage to state buildings, except buildings procured by the department of transportation by purchase or condemnation for right-of-way purposes, ~~shall~~ must be deposited in the state special revenue fund. The money is statutorily appropriated, as provided in 17-7-502, for the purposes of subsections (2) and (3).

(2) ~~These moneys are statutorily appropriated as provided in 17-7-502 and~~ The money may only be:

(a) used to repair the damaged property;

(b) used to replace the damaged property, subject to the limitations in subsection (3) ~~of this section~~; or

(c) transferred to the fund and account from which the premiums were paid on the policy covering the building. ~~Moneys~~ Money transferred in this manner may not be spent by the institution or agency having custody of the damaged property but ~~shall~~ must be available for future legislative appropriation. If the ~~moneys are~~ money is not spent or committed within 2 years from the time ~~they are~~ that it is received, ~~they shall~~ the money automatically ~~revert~~ reverts to the fund and account from which the premiums were paid.

(3) If an insured building is totally destroyed or so badly damaged that repair is impractical, the governing board or officer responsible for the building may ~~authorize request that any moneys~~ money received by the state as indemnification for property damage ~~to be used to replace the building only if the proposed replacement is designed to be used for the same general purposes as the damaged or destroyed building, and for this purpose the amounts available therefor are statutorily appropriated as provided in 17-7-502.~~ If the governing board or officer determines that the building should not be replaced, any ~~moneys~~ money received by the state as indemnification for property damage over and above any outstanding debt on the building ~~shall~~ must be transferred as provided in subsection (2)(c) ~~of this section.~~"

Section 3. Section 10-2-416, MCA, is amended to read:

"10-2-416. Pledge to continue operation and maintenance. Pursuant to 38 U.S.C. 641 and 5035(a)(6), the state shall appropriate funds ~~either from the general fund or from funds generated under 16-11-111~~ to the department of public health and human services financial support necessary to provide for continued operation and maintenance of the state home for veterans in eastern Montana. The department of public health and human services may contract with a private vendor to provide for the operation of the eastern Montana veterans' home

and may charge the contract vendor a rental fee for the maintenance and upkeep of the facility."

Section 4. Section 10-4-301, MCA, is amended to read:

"10-4-301. Establishment of emergency telecommunications account. A 9-1-1 emergency telecommunications account is established in the state special revenue fund in the state treasury. An amount equal to 6.91% of the money received pursuant to 10-4-201 must be deposited in the state general fund. All remaining money received by the department of revenue pursuant to 10-4-201 must be paid to the state treasurer for deposit in the account. After payment of refunds pursuant to 10-4-205, the balance of the account must be used for the purposes described in part 1 of this chapter. ~~The distribution of the 9-1-1 emergency telecommunications account, according to the requirements of 10-4-302, is statutorily appropriated.~~ Expenditures for actual and necessary expenses required for the efficient administration of the plan must be made from temporary appropriations, ~~as described in 17-7-501(1) or (2),~~ made for that purpose."

Section 5. Section 10-4-302, MCA, is amended to read:

"10-4-302. Distribution of account by department. (1) The department shall make quarterly distributions of the entire account ~~beginning on April 1, 1987.~~ The distributions must be made for the following:

~~(a) administrative costs incurred during the preceding calendar quarter by the department of revenue in carrying out this chapter. The amount paid may not exceed 1% of the account on the date of distribution or actual expenses incurred, whichever is less.~~

~~(b) administrative costs incurred during the preceding calendar quarter by the department in carrying out its duties under this chapter. The department's annual recovery of costs may not exceed 7% of the amount collected by the account during the fiscal year or actual expenses incurred, whichever is less.~~

~~(c)~~ costs incurred during the preceding calendar quarter by each provider of telephone service in the state for:

~~(i)~~(a) collection of the fee imposed by 10-4-201;

~~(ii)~~(b) modification of central office switching and trunking equipment for emergency telephone service only; and

~~(iii)~~(c) conversion of pay station telephones required by 10-4-121.

(2) Payments under subsection (1)~~(c)~~ may be made only after application by the provider to the department for costs incurred in subsection (1)~~(c)~~. The department shall review all applications relevant to subsection (1)~~(c)~~ for appropriateness of costs claimed by the provider. If the provider contests the review, payment may not be made until the amount owed the provider is made certain.

(3) After all amounts under subsections (1) and (2) have been paid, the balance of the account must be allocated to cities and counties on a per capita basis. However, each county must be allocated a minimum of 1% of the balance of the counties' share of the account. A 9-1-1 jurisdiction whose 9-1-1 service area includes more than one city or county is eligible to receive operating funds from the allocation for each city or county involved. The department shall distribute to the accounting entity designated by a 9-1-1 jurisdiction with an

approved final plan the proportional amount for each city or county served by the 9-1-1 jurisdiction. The department shall provide a report indicating the proportional share derived from the individual city's or county's allocation with each distribution to a 9-1-1 jurisdiction.

(4) If the department through its monitoring process determines that a 9-1-1 jurisdiction is not adhering to an approved plan or is not using funds in the manner prescribed in 10-4-303, the department may, after notice and hearing, suspend payment to the 9-1-1 jurisdiction. The jurisdiction is not eligible to receive funds until such time as the department determines that the jurisdiction is complying with the approved plan and fund usage limitations."

Section 6. Section 15-1-501, MCA, is amended to read:

"15-1-501. Disposition of money from certain designated license and other taxes. (1) The state treasurer shall deposit to the credit of the state general fund in accordance with the provisions of subsection ~~(6)~~ (3) all money received from the collection of:

- (a) income taxes, interest, and penalties collected under chapter 30;
- (b) except as provided in 15-31-702, all taxes, interest, and penalties collected under chapter 31;
- (c) oil and natural gas production taxes allocated under 15-36-324(7)(a);
- ~~(a) fees from driver's licenses, motorcycle endorsements, and duplicate driver's licenses as provided in 61-5-121;~~
- ~~(b)~~(d) electrical energy producer's license taxes under chapter 51;
- (e) telephone company license taxes under chapter 53;
- ~~(e)~~(f) liquor license taxes under Title 16;
- ~~(d) telephone company license taxes under chapter 53; and~~
- (g) fees from driver's licenses, motorcycle endorsements, and duplicate driver's licenses as provided in 61-5-121; and
- ~~(e)~~(h) inheritance and estate taxes under Title 72, chapter 16.
- ~~(2) All money received from the collection of income taxes under chapter 30 of this title must, in accordance with the provisions of subsection (6), be deposited as follows:~~
- ~~(a) 91.3% of the taxes to the credit of the state general fund;~~
- ~~(b) 8.7% of the taxes to the credit of the debt service account for long-range building program bonds as described in 17-5-408; and~~
- ~~(c) all interest and penalties to the credit of the state general fund.~~

~~(3) All money received from the collection of corporation license and income taxes under chapter 31 of this title, except as provided in 15-31-702, must, in accordance with the provisions of subsection (6), be deposited as follows:~~

~~(a) 89.5% of the taxes to the credit of the state general fund;~~

~~(b) 10.5% of the taxes to the credit of the debt service account for long-range building program bonds as described in 17-5-408; and~~

~~(c) all interest and penalties to the credit of the state general fund.~~

~~(4)~~(2) The department of revenue shall also deposit to the credit of the state general fund all money received from the collection of license taxes and fees and all net revenue and receipts from all other sources under the operation of the Montana Alcoholic Beverage Code.

~~(5) Oil and natural gas production taxes allocated under 15-36-324(7)(a) must be deposited in the general fund.~~

~~(6)~~(3) Notwithstanding any other provision of law, the distribution of tax revenue must be made according to the provisions of the law governing allocation of the tax that were in effect for the period in which the tax revenue was recorded for accounting purposes. Tax revenue must be recorded as prescribed by the department of administration, pursuant to 17-1-102(2) and (5), in accordance with generally accepted accounting principles.

~~(7)~~(4) All refunds of taxes must be attributed to the funds in which the taxes are currently being recorded. All refunds of interest and penalties must be attributed to the funds in which the interest and penalties are currently being recorded."

Section 7. Section 15-30-153, MCA, is amended to read:

"15-30-153. Funding for administration of special revenue accounts ~~—special revenue account for tax checkoff administration.~~ (1) The department shall charge any special revenue account ~~created after January 1, 1993;~~ that is funded by means of an income tax checkoff the actual and necessary cost to create the special revenue account and to place the checkoff on the income tax return.

(2) In addition to the charges in subsection (1), the department shall charge each special revenue account funded by means of an income tax checkoff the actual expenses necessary to administer the account. The department's charges may not exceed \$3,000 for a tax year.

~~(3) There are special revenue accounts in the state treasury for the administration of income tax checkoffs.~~

~~(4)~~ All charges collected pursuant to subsections (1) and (2) must be deposited in ~~a tax checkoff administration account~~ the state general fund.

~~(5) The money in a tax checkoff administration account, subject to appropriation, must be expended to administer the income tax checkoff for which the account was created."~~

Section 8. Section 15-36-324, MCA, is amended to read:

"15-36-324. Distribution of taxes. (1) For each calendar quarter, the department of revenue shall determine the amount of tax, late payment interest, and penalty collected under this part. For purposes of distribution of the taxes to county and school taxing units, the department shall determine the amount of oil and natural gas production taxes paid on production from pre-1985 wells, post-1985 wells, and horizontally drilled wells located in the taxing unit.

(2) Except as provided in subsections (3) and (4), oil production taxes must be distributed as follows:

(a) The amount equal to 41.6% of the oil production taxes, including late payment interest and penalty, collected under this part must be distributed as provided in subsection (7).

(b) The remaining 58.4% of the oil production taxes, plus accumulated interest earned on the amount allocated under this subsection (2)(b), must be deposited in the ~~agency~~ state special revenue fund in the state treasury and transferred to the county and school taxing units for distribution as provided in subsection (8).

(3) The amount equal to 100% of the oil production taxes, including late payment interest and penalty, collected from working interest owners on production from post-1985 wells occurring during the first 12 months of production must be distributed as provided in subsection (7).

(4) The amount equal to 100% of the oil production taxes, including late payment interest and penalty, collected under this part on production from horizontally drilled wells and on the incremental production from horizontally recompleted wells occurring during the first 18 months of production must be distributed as provided in subsection (7).

(5) Except as provided in subsection (6), natural gas production taxes must be allocated as follows:

(a) The amount equal to 14.6% of the natural gas production taxes, including late payment interest and penalty, collected under this part must be distributed as provided in subsection (7).

(b) The remaining 85.4% of the natural gas production taxes, plus accumulated interest earned on the amount allocated under this subsection (5)(b), must be deposited in the ~~agency~~ state special revenue fund in the state treasury and transferred to the county and school taxing units for distribution as provided in subsection (8).

(6) The amount equal to 100% of the natural gas production taxes, including late payment interest and penalty, collected from working interest owners under this part on production from post-1985 wells occurring during the first 12 months of production must be distributed as provided in subsection (7).

(7) The department shall, in accordance with the provisions of 15-1-501~~(6)~~, distribute the state portion of oil and natural gas production taxes, including late payment interest and penalty collected, as follows:

(a) 85% to the state general fund;

(b) 4.3% to the state special revenue fund for the purpose of paying expenses of the board as provided in 82-11-135; and

(c) 10.7% to be distributed as provided by 15-38-106(2).

(8) (a) For the purpose of distribution of the oil and natural gas production taxes from pre-1985 wells, the department shall each calendar quarter adjust the unit value determined under 15-36-323 according to the ratio that the oil and natural gas production taxes from pre-1985 wells collected during the calendar quarter for which

the distribution occurs plus penalties and interest on delinquent oil and natural gas production taxes from pre-1985 wells bears to the total liability for the oil and natural gas production taxes from pre-1985 wells for the quarter for which the distribution occurs. The amount of oil and natural gas production taxes distributions must be calculated and distributed as follows:

- (i) By the dates referred to in subsection (9), the department shall calculate and distribute to each eligible county the amount of oil and natural gas production taxes from pre-1985 wells for the quarter, determined by multiplying the unit value, as adjusted in this subsection (8)(a), by the units of production on which oil and natural gas production taxes from pre-1985 wells were owed for the calendar quarter for which the distribution occurs.
- (ii) Any amount by which the total tax liability exceeds or is less than the total distributions determined in subsection (8)(a) must be calculated and distributed in the following manner:
 - (A) The excess amount or shortage must be divided by the total distribution determined for that period to obtain an excess or shortage percentage.
 - (B) The excess percentage must be multiplied by the distribution to each taxing unit, and this amount must be added to the distribution to each respective taxing unit.
 - (C) The shortage percentage must be multiplied by the distribution to each taxing unit, and this amount must be subtracted from the distribution to each respective taxing unit.
- (b) Except as provided in subsection (8)(c), the county treasurer shall distribute the money received under subsection (9) from pre-1985 wells to the taxing units that levied mills in fiscal year 1990 against calendar year 1988 production in the same manner that all other property tax proceeds were distributed during fiscal year 1990 in the taxing unit, except that a distribution may not be made to a municipal taxing unit.
- (c) The board of county commissioners of a county may direct the county treasurer to reallocate the distribution of oil and natural gas production tax money that would have gone to a taxing unit, as provided in subsection (8)(b), to another taxing unit or taxing units, other than an elementary school or high school, within the county under the following conditions:
 - (i) The county treasurer shall first allocate the oil and natural gas production taxes to the taxing units within the county in the same proportion that all other property tax proceeds were distributed in the county in fiscal year 1990.
 - (ii) If the allocation in subsection (8)(c)(i) exceeds the total budget for a taxing unit, the commissioners may direct the county treasurer to allocate the excess to any taxing unit within the county.
- (d) The board of trustees of an elementary or high school district may reallocate the oil and natural gas production taxes distributed to the district by the county treasurer under the following conditions:
 - (i) The district shall first allocate the oil and natural gas production taxes to the budgeted funds of the district in the same proportion that all other property tax proceeds were distributed in the district in fiscal year 1990.
 - (ii) If the allocation under subsection (8)(d)(i) exceeds the total budget for a fund, the trustees may allocate the excess to any budgeted fund of the school district.
- (e) For all production from post-1985 wells and horizontally drilled wells completed after December 31, 1993,

the county treasurer shall distribute oil and natural gas production taxes received under subsections (2)(b) and (5)(b) between county and school taxing units in the relative proportions required by the levies for state, county, and school district purposes in the same manner as property taxes were distributed in the preceding fiscal year.

(f) The allocation to the county in subsection (8)(e) must be distributed by the county treasurer in the relative proportions required by the levies for county taxing units and in the same manner as property taxes were distributed in the preceding fiscal year.

(g) The money distributed in subsection (8)(e) that is required for the county mill levies for school district retirement obligations and transportation schedules must be deposited to the funds established for these purposes.

(h) The oil and natural gas production taxes distributed under subsection (8)(b) that are required for the 6-mill university levy imposed under 20-25-423 and for the county equalization levies imposed under 20-9-331 and 20-9-333, as those sections read on July 1, 1989, must be remitted by the county treasurer to the state treasurer.

(i) The oil and natural gas production taxes distributed under subsection (8)(e) that are required for the 6-mill university levy imposed under 20-25-423, for the county equalization levies imposed under 20-9-331 and 20-9-333, and for the state equalization aid levy imposed under 20-9-360 must be remitted by the county treasurer to the state treasurer.

(j) The amount of oil and natural gas production taxes remaining after the treasurer has remitted the amounts determined in subsections (8)(h) and (8)(i) is for the exclusive use and benefit of the county and school taxing units.

(9) The department shall remit the amounts to be distributed in subsection (8) to the county treasurer by the following dates:

(a) On or before August 1 of each year, the department shall remit to the county treasurer oil and natural gas production tax payments received for the calendar quarter ending March 31 of the current year.

(b) On or before November 1 of each year, the department shall remit to the county treasurer oil and natural gas production tax payments received for the calendar quarter ending June 30 of the current year.

(c) On or before February 1 of each year, the department shall remit to the county treasurer oil and natural gas production tax payments received for the calendar quarter ending September 30 of the previous year.

(d) On or before May 1 of each year, the department shall remit to the county treasurer oil and natural gas production tax payments received for the calendar quarter ending December 31 of the previous calendar year.

(10) The department shall provide to each county by May 31 of each year the amount of gross taxable value represented by all types of production taxed under 15-36-304 for the previous calendar year multiplied by 60%. The resulting value must be treated as taxable value for county classification purposes and for county bonding purposes."

Section 9. Section 15-38-106, MCA, is amended to read:

"15-38-106. Payment of tax -- records -- collection of taxes -- refunds. (1) The tax imposed by this chapter

must be paid by each person to which the tax applies, on or before March 31, on the value of product in the year preceding January 1 of the year in which the tax is paid. The tax must be paid to the department at the time that the statement of yield for the preceding calendar year is filed with the department.

(2) The department shall, in accordance with the provisions of 15-1-501~~(6)~~, deposit the proceeds of the tax in the resource indemnity trust fund of the nonexpendable trust fund type, except that:

(a) 14.1% of the proceeds must be deposited in the ground water assessment account established by 85-2-905;

(b) 10% of the proceeds must be deposited in the renewable resource grant and loan program state special revenue account established by 85-1-604; and

(c) 30% of the proceeds must be deposited in the reclamation and development grants account established by 90-2-1104.

(3) ~~Every~~ Each person to whom the tax applies shall keep records in accordance with 15-38-105, and the records are subject to inspection by the department upon reasonable notice during normal business hours.

(4) The department shall examine the statement and compute the taxes to be imposed, and the amount computed by the department is the tax imposed, assessed against, and payable by the taxpayer. If the tax found to be due is greater than the amount paid, the excess must be paid by the taxpayer to the department within 30 days after written notice of the amount of deficiency is mailed by the department to the taxpayer. If the tax imposed is less than the amount paid, the difference must be applied as a tax credit against tax liability for subsequent years or refunded if requested by the taxpayer."

Section 10. Section 15-65-121, MCA, is amended to read:

"15-65-121. ~~Distribution~~ Deposit of tax proceeds ~~—general fund loan authority.~~ (1) The proceeds of the tax imposed by 15-65-111 must, in accordance with the provisions of 15-1-501, be deposited in ~~an account in~~ the state ~~special revenue~~ general fund to the credit of the department of revenue. The department of revenue may ~~spend from that account~~ pay the expenses of collecting the tax in accordance with an expenditure appropriation by the legislature ~~based on an estimate of the costs of collecting and disbursing the proceeds of the tax. Before allocating the balance of the tax proceeds in accordance with the provisions of 15-1-501 and as provided in subsections (1)(a) through (1)(c) of this section, the department shall determine the expenditures by state agencies for in-state lodging for each reporting period and deduct 4% of that amount from the tax proceeds received each reporting period. The amount deducted must be deposited in the general fund. The balance of the tax proceeds received each reporting period and not deducted pursuant to the expenditure appropriation or deposited in the general fund is statutorily appropriated, as provided in 17-7-502, and must be transferred to an account in the state special revenue fund to the credit of the department of commerce for tourism promotion and promotion of the state as a location for the production of motion pictures and television commercials, to the Montana historical society, to the university system, and to the department of fish, wildlife, and parks, as follows:~~

~~(a) 1% to the Montana historical society to be used for the installation or maintenance of roadside historical signs and historic sites;~~

~~(b) 2.5% to the university system for the establishment and maintenance of a Montana travel research program;~~

- ~~(c) 6.5% to the department of fish, wildlife, and parks for the maintenance of facilities in state parks that have both resident and nonresident use;~~
- ~~(d) 67.5% to be used directly by the department of commerce; and~~
- ~~(e) (i) except as provided in subsection (1)(c)(ii), 22.5% to be distributed by the department to regional nonprofit tourism corporations in the ratio of the proceeds collected in each tourism region to the total proceeds collected statewide; and~~
- ~~(ii) if 22.5% of the proceeds collected annually within the limits of a city or consolidated city-county exceeds \$35,000, 50% of the amount available for distribution to the regional nonprofit tourism corporation in the region where the city or consolidated city-county is located, to be distributed to the nonprofit convention and visitors bureau in that city or consolidated city-county.~~
- ~~(2) If a city or consolidated city-county qualifies under this section for funds but fails to either recognize a nonprofit convention and visitors bureau or submit and gain approval for an annual marketing plan as required in 15-65-122, then those funds must be allocated to the regional nonprofit tourism corporation in the region in which the city or consolidated city-county is located.~~
- ~~(3) If a regional nonprofit tourism corporation fails to submit and gain approval for an annual marketing plan as required in 15-65-122, then those funds otherwise allocated to the regional nonprofit tourism corporation may be used by the department of commerce for tourism promotion and promotion of the state as a location for the production of motion pictures and television commercials."~~

Section 11. Section 15-70-125, MCA, is amended to read:

"15-70-125. Highway nonrestricted account. There is a highway nonrestricted account in the state special revenue fund. All interest and penalties collected under this chapter, except those collected by a justice's court, must, in accordance with the provisions of 15-1-501~~(6)~~, be placed in the highway nonrestricted account."

Section 12. Section 16-1-306, MCA, is amended to read:

"16-1-306. Revenue to be paid to state treasurer. Except as provided in 16-1-404, 16-1-405, ~~16-1-408, 16-1-410,~~ 16-1-406, and 16-1-411, all fees, charges, taxes, and revenue collected by or under authority of the department must, in accordance with the provisions of 15-1-501, be deposited to the credit of the state general fund."

Section 13. Section 16-1-404, MCA, is amended to read:

"16-1-404. License tax on liquor -- amount -- distribution of proceeds. (1) The department shall collect at the time of sale and delivery of any liquor under any provisions of the laws of the state of Montana a license tax of:

- (a) 10% of the retail selling price on all liquor sold and delivered in the state by a company that manufactured,

distilled, rectified, bottled, or processed; and that sold more than 200,000 proof gallons of liquor nationwide in the calendar year preceding imposition of the tax pursuant to this section;

(b) 8.6% of the retail selling price on all liquor sold and delivered in the state by a company that manufactured, distilled, rectified, bottled, or processed; and that sold not more than 200,000 proof gallons of liquor nationwide in the calendar year preceding imposition of the tax pursuant to this section.

(2) The license tax must be charged and collected on all liquor brought into the state and taxed by the department. The retail selling price must be computed by adding to the cost of the liquor the state markup as designated by the department. The license tax must be figured in the same manner as the state excise tax and is in addition to the state excise tax. The department shall retain in a separate account the amount of the license tax received. ~~Thirty percent of this~~ The revenue is statutorily appropriated, as provided in 17-7-502, to the department and must, in accordance with the provisions of 15-1-501, be disbursed as follows:

(a) Thirty percent is allocated to the counties according to the amount of liquor purchased in each county to be distributed to the incorporated cities and towns, as provided in subsection (3).

(b) ~~Four and one-half percent of this revenue is statutorily appropriated, as provided in 17-7-502, and must, in accordance with the provisions of 15-1-501, be~~ allocated to the counties according to the amount of liquor purchased in each county, and this money may be used for county purposes.

(c) ~~The remaining revenue~~ Sixty-five and one-half percent must, ~~in accordance with the provisions of 15-1-501,~~ be deposited in the state special revenue fund to the credit of the department of public health and human services for the treatment, rehabilitation, and prevention of alcoholism. In the case of purchases of liquor by a retail liquor licensee for use in the licensee's business, the department shall make regulations necessary to apportion that proportion of license tax so generated to the county where the licensed establishment is located, for use as provided in 16-1-405. ~~That proportion of the license tax is statutorily appropriated, as provided in 17-7-502, to the~~ The department, ~~which~~ shall pay quarterly to each county treasurer the proportion of the license tax due each county, in accordance with the provisions of 15-1-501, to be allocated to the incorporated cities and towns of the county.

(3) The license tax proceeds allocated to the county under subsection (2) for use by cities and towns must be distributed by the county treasurer to the incorporated cities and towns within 30 days of receipt from the department. The distribution of funds to the cities and towns must be based on the proportion that the gross sale of liquor in each city or town is to the gross sale of liquor in all of the cities and towns of the county.

(4) The license tax proceeds that are allocated to the department of public health and human services for the treatment, rehabilitation, and prevention of alcoholism must be credited quarterly to the department of public health and human services. The legislature may appropriate a portion of the license tax proceeds to support alcohol programs. The remainder must be distributed as provided in 53-24-206."

Section 14. Section 16-1-406, MCA, is amended to read:

"16-1-406. Tax Taxes on beer. (1) A tax of ~~\$3~~ \$4.30 per barrel of 31 gallons is hereby levied and imposed on each ~~and every~~ barrel of beer sold in Montana by ~~any~~ a wholesaler, ~~which said~~ The tax ~~shall be~~ is due at the end of each month from ~~said~~ the wholesaler upon ~~any such~~ beer so sold by ~~him~~ the wholesaler during that month. ~~As to any~~ The department shall compute the tax due on beer sold in containers other than barrels or in barrels of more or less capacity than 31 gallons, ~~the quantity content shall be ascertained and computed by the~~

~~department in determining the amount of tax due.~~

(2) Each quarter, in accordance with the provisions of 15-1-501, of the tax collected pursuant to subsection (1), an amount equal to:

(a) \$1 must be deposited in the state treasury to the credit of the department of public health and human services for the treatment, rehabilitation, and prevention of alcoholism;

(b) 50 cents must be deposited in the state general fund; and

(c) \$2.80 must be deposited with the state treasurer to the credit of the incorporated cities and towns beer tax account in the state special revenue fund.

(3) (a) The money in the incorporated cities and towns beer tax account is statutorily appropriated, as provided in 17-7-502, to the department, which shall, monthly, distribute this amount of money to the incorporated cities and towns in the direct proportion that the population of each city and town bears to the total population of all incorporated cities and towns as shown in the latest official federal census as adjusted by the most recent population estimates published by the U.S. bureau of the census. For cities and towns incorporated after the latest official federal census, the census must be determined as of the date of incorporation as evidenced by the certificate of the incorporating officials of that city or town. If a city or town disincorporates, it may not receive any funds under this section and the amount previously distributed to the city or town must be distributed to the remaining incorporated cities and towns. All funds received by cities and towns under this section must be expended for state purposes, such as law enforcement, maintenance of the transportation system, and public health.

(b) The department may adjust population estimates only on the July 1 following the date of publication of the estimates by the U.S. bureau of the census. The adjusted distribution formula must remain in effect for the entire fiscal year."

Section 15. Section 16-1-409, MCA, is amended to read:

"16-1-409. Failure to make beer tax returns -- penalties. (1) ~~If any a brewer or wholesaler subject to the payment of the tax provided for in 16-1-406 and 16-1-408 fails, neglects, or refuses to make any return required by this code or fails to make payment of the tax within the time herein provided in this part, the department shall, after such the time has expired, proceed to inform itself as best it may regarding the matters and things required to be set forth in such return and, from such information as it may be able to obtain, to make a statement showing such matters and things and~~ determine and fix the amount of tax due the state from the delinquent brewer or wholesaler.

(2) The department shall add to the amount of tax due a penalty of:

(a) 5% for the first failure, ~~willful neglect, or refusal;~~

(b) 10% for the second failure;

(c) 15% for the third failure; and

(d) 25% for the fourth and each subsequent failure, ~~neglect, or refusal.~~

- (3) The penalty provided for in subsection (2) is in addition to the 5% penalty provided for nonpayment of the tax within the time provided.
- (4) The tax and penalties bear interest at the rate of 1% per month from the date returns should have been made and the tax paid.
- (5) The department shall then proceed to collect the tax with penalties and interest. Upon request of the department, it is the duty of the attorney general to commence and prosecute ~~to final determination~~ in any court of competent jurisdiction an action to collect the tax.
- (6) If all or part of the tax imposed upon a brewer or wholesaler by this part is not paid when due, the department may issue a warrant for distraint as provided in Title 15, chapter 1, part 7. The resulting lien has precedence over any other claim, lien, or demand ~~thereafter~~ filed or recorded after the warrant is issued.
- (7) ~~No~~ An action ~~shall~~ may not be maintained to enjoin the collection of the tax or any part ~~thereof~~ of the tax.
- (8) Any tax owed by a brewer or wholesaler under this code not paid within the time provided ~~shall be~~ is delinquent, and a penalty of 5% ~~shall~~ must be added ~~thereto~~ to the tax. The tax and penalty bear interest at the rate of 1% per month from the date of delinquency until paid. ~~Any~~ A brewer or wholesaler who fails, neglects, or refuses to make the return to the department provided for in 16-3-211 or 16-3-231 or refuses to allow the examination as provided for in 16-3-211 or 16-3-231 or fails to make an accurate return according to the manner prescribed is guilty of a misdemeanor and upon conviction shall be fined in an amount not exceeding \$1,000."

Section 16. Section 16-11-119, MCA, is amended to read:

"16-11-119. Disposition of taxes -- retirement of bonds. ~~(1) The amount of 11.11% of the cigarette tax collected under the provisions of 16-11-111 on each package of cigarettes must be deposited in the state special revenue fund to the credit of the department of public health and human services for the operation and maintenance of state veterans' nursing homes.~~

~~(2) All remaining~~ revenue collected under the provisions of 16-11-111, ~~less the expense of collecting the taxes,~~ must, in accordance with the provisions of 15-1-501, be deposited as follows:

- ~~(a)(1) 79.75%~~ 82.17% in the ~~long-range building program~~ state general fund in the debt service fund type; and
- ~~(b)(2) 20.25%~~ 17.83% in the long-range building program account provided for in 17-7-205."

Section 17. Section 16-11-206, MCA, is amended to read:

"16-11-206. Wholesaler's discount -- disposition of taxes. The taxes specified in this part that are paid by the wholesaler must be paid to the department in full less a 5% defrayment for the wholesaler's collection and administrative expense and must, in accordance with the provisions of 15-1-501, be deposited by the department in the ~~long-range building program debt service~~ state general fund. Refunds of the tax paid must be made as provided in 15-1-503 in cases in which the tobacco products purchased become unsalable."

Section 18. Section 17-1-508, MCA, is amended to read:

"17-1-508. Review of statutory appropriations. (1) Each interim, the legislative finance committee shall review each statutory appropriation that is contained in a section listed in 17-7-502 and that is not exempted under subsection (6) of this section and shall review the ~~criteria~~ guidelines set forth in subsection (4) to eliminate statutory appropriations that no longer fulfill a legislative need and to ensure that legislative policy is clearly stated concerning the use of statutory appropriations.

(2) Each biennium, the office of budget and program planning ~~and the legislative fiscal analyst~~ shall, in development ~~and analysis~~ of the executive budget, identify instances in which statutory appropriations in current law do not appear consistent with the ~~criteria~~ guidelines set forth in subsection (4).

(3) As part of each agency audit, the legislative auditor shall review statutory appropriations to the agency and report instances in which they do not appear consistent with the ~~criteria~~ guidelines set forth in subsection (4).

(4) The review of statutory appropriations must determine whether a statutory appropriation meets the requirements of ~~17-1-505~~ 17-7-501. A statutory appropriation from a continuing and reliable source of revenue may not be used to fund administrative costs. In reviewing and establishing statutory appropriations, the legislature shall consider the following guidelines. A statutory appropriation may be considered appropriate if:

- (a) the fund or use requires an appropriation;
- (b) the money is not from a continuing, reliable, and estimable source;
- (c) the use of the appropriation or the expenditure occurrence is not predictable and reliable;
- (d) the authority does not exist elsewhere;
- (e) an alternative appropriation method is not available, practical, or effective;
- (f) other than for emergency purposes, it does not appropriate money from the state general fund;
- (g) the money is dedicated for a specific use;
- (h) the legislature wishes the activity to be funded on a continual basis; and
- (i) when feasible, an expenditure cap and sunset date are included.

(5) The office of budget and program planning shall prepare a fiscal note for each piece of legislation that proposes to create or amend a statutory appropriation. It shall, consistent with the ~~review provisions~~ guidelines in this section, review each ~~piece~~ of these pieces of legislation that proposes to create or amend a statutory appropriation. Its findings concerning the statutory appropriation must be contained in the fiscal note accompanying that legislation.

(6) The legislative finance committee shall establish procedures to facilitate a biennial review and evaluation of statutory appropriations. If the review determines that continual review of a statutory appropriation is not necessary, the statutory appropriation may be exempt from future review."

Section 19. Section 17-5-403, MCA, is amended to read:

"17-5-403. Form, principal and interest, fiscal agent, and deposit of proceeds. (1) Each series of ~~such~~ long-range building program bonds ~~shall~~ must be issued by the board upon request of the department, in ~~such~~ denominations and form, whether payable to bearer or registered as to principal or both principal and interest, with ~~such~~ provisions for conversion or exchange and for the issuance of notes in anticipation of the execution and delivery of definitive bonds, bearing interest at ~~such~~ the rate or rates, maturing at ~~such~~ times not exceeding 30 years from date of issue, subject to redemption at ~~such~~ earlier times and prices and upon ~~such~~ notice, and payable at the office of ~~such~~ the fiscal agency of the state as the board shall determine, subject to the limitations contained in ~~this section and~~ 17-5-402 and this section.

(2) In the issuance of each series of ~~such~~ bonds, the amount, maturities, and interest rates ~~thereof shall~~ must be fixed in ~~such~~ a manner that the maximum amount of principal and interest to become due in any subsequent fiscal year on all ~~such~~ outstanding bonds ~~then outstanding~~ and on the series ~~so~~ to be issued will not exceed 50% of the average annual amount collected during the 3 ~~then next~~ preceding fiscal years from the ~~special~~ taxes pledged by law to the debt service account at the time of ~~such~~ issuance, ~~except that this~~ This provision shall may not constitute a covenant of the state for the security of the bonds issued pursuant to this part after January 1, 1973, and the state reserves the right to amend this subsection in any manner after all bonds issued prior to that date and the interest ~~thereon have on the bonds have~~ been fully paid or the state's liability ~~thereon~~ has been otherwise fully discharged.

(3) In all other respects, the board is authorized to prescribe the form and terms of the bonds and shall do whatever is lawful and necessary for their issuance and payment. ~~Such~~ The bonds and any interest coupons appurtenant ~~thereto shall~~ to the bonds must be signed by the members of the board, and the bonds ~~shall~~ must be issued under the great seal of the state of Montana. The bonds and coupons may be executed with facsimile signatures and seal in the manner and subject to the limitations prescribed by law. The state treasurer shall keep a record of all ~~such~~ long-range building bonds issued and sold.

(4) The board ~~is hereby authorized to~~ may employ a fiscal agent to assist in the performance of its duties ~~hereunder~~ under this part.

(5) All proceeds of bonds issued ~~hereunder shall~~ under this part must be deposited in the capital projects fund, except that any premiums and accrued interest received ~~shall~~ must be deposited in the debt service account."

Section 20. Section 17-5-404, MCA, is amended to read:

"17-5-404. Use of capital projects fund. The capital projects fund ~~shall~~ must be segregated by the treasurer from all other money in that or any other fund in the state treasury and used only to pay costs of the long-range building program. The department may transfer ~~all money authorized by the legislature for its administrative expenditures~~ from the capital projects fund to a special revenue fund, ~~and for such purposes the money is statutorily appropriated as provided in 17-7-502~~ the amount appropriated by the legislature from the special revenue fund for administrative expenses."

Section 21. Section 17-5-405, MCA, is amended to read:

"17-5-405. Debt service account. ~~(1) From and after the pledge and appropriation of any special tax to the debt service account, as provided and contemplated in this section, 17-5-407, and 17-5-408, such tax shall continue in force and shall be available and shall be pledged and appropriated for the payment of long-range building program bonds, and all moneys received from the collection thereof shall be deposited by the treasurer to the credit of the debt service account.~~

~~(2) No special taxes pledged to the debt service account on January 1, 1973, shall be discontinued or diverted to other funds until all bonds issued pursuant to this part prior to that date and the interest thereon have been fully paid or the state's liability thereon has been fully discharged, except to the extent, if any, that the right so to do has been reserved in the resolutions authorizing the issuance of such bonds.~~

~~(3) Subject to the provisions of subsections (1) and (2), the state reserves the right to modify from time to time the nature and amount of special taxes to be deposited to the credit of the debt service account.~~

~~(4)~~(1) Money in the debt service account ~~shall~~ must be used:

(a) first, to pay interest and principal when due on long-range building program bonds;

(b) second, to accumulate a reserve in the amount required ~~below~~ in subsection (1)(c), for the further security of ~~such~~ the payments; and

(c) third, to maintain ~~this~~ the reserve in an amount at least equal, after each interest and principal payment, to the maximum amount of interest and principal ~~which that~~ will become due on all ~~such~~ bonds ~~which that~~ are ~~then~~ outstanding in any subsequent fiscal year.

~~(5)~~(2) Money at any time received in the debt service account in excess of the principal, interest, and reserve requirements stated in subsection ~~(4)~~ (1) ~~shall~~ must be transferred by the treasurer to the general fund. If the balance at any time on hand in the debt service account is not sufficient for compliance with subsection ~~(4)~~ (1), the treasurer shall credit to ~~said~~ the debt service account an amount sufficient to restore ~~said~~ the balance from the ~~next collections of the special taxes appropriated to said account and from any other collections of taxes appropriated to the general fund, not exceeding the aggregate amount theretofore transferred from the debt service account to the general fund.~~

Section 22. Section 17-5-408, MCA, is amended to read:

"17-5-408. Percentage of income, corporation license, and cigarette tax pledged Pledge of money to comply with principal, interest, and reserve requirements. (1) ~~(a)~~ The state pledges and appropriates and directs to be credited as received to the debt service account money ~~received from the collection of the individual income tax and, except as provided in 15-31-702, money received from the collection of the corporation license and income tax, as provided in 15-1-501, as may at any time be needed to comply with the principal and interest and reserve requirements stated in 17-5-405~~(4)(1).

~~(b)~~(2) The pledge ~~and appropriation~~ made by this section ~~are~~ is a first and prior charge upon all money received from the collection of ~~the enumerated~~ taxes.

~~(2) Except for the amount credited to the veterans' home maintenance and improvement account under 16-11-119, the state pledges and appropriates and directs to be credited to the debt service account 79.75% of all remaining money received from the collection of the excise tax on cigarettes that is levied, imposed, and~~

~~assessed by 16-11-111. The state also pledges and appropriates and directs to be credited as received to the debt service account all money received from the collection of the taxes on other tobacco products that are or may be imposed for that purpose, including the tax imposed by 16-11-202. This section does not impair or otherwise affect the provisions and covenants contained in the resolutions authorizing the presently outstanding long-range building program bonds. Subject to the provisions of the preceding sentence, the pledge and appropriation made by this section are a first and prior charge upon all money received from the collection of all taxes referred to in this subsection."~~

Section 23. Section 17-5-804, MCA, is amended to read:

"17-5-804. Use of capital projects account. The capital projects account must be segregated by the treasurer from all other money in that or any other account in the state treasury and used only to pay costs of the projects for which bonds were issued, in accordance with the respective bond accounts. The department may transfer all money authorized by the legislature for its administrative expenditures from the capital projects account to a special revenue fund, ~~and for such purposes the money is statutorily appropriated as provided in 17-7-502."~~

Section 24. Section 17-6-201, MCA, is amended to read:

"17-6-201. Unified investment program -- general provisions. (1) The unified investment program directed by Article VIII, section 13, of the Montana constitution to be provided for public funds must be administered by the board of investments in accordance with the prudent expert principle, which requires any investment manager to:

(a) discharge the duties with the care, skill, prudence, and diligence, under the circumstances then prevailing, that a prudent person acting in a like capacity with the same resources and familiar with like matters exercises in the conduct of an enterprise of a like character with like aims;

(b) diversify the holdings of each fund within the unified investment program to minimize the risk of loss and to maximize the rate of return unless, under the circumstances, it is clearly prudent not to do so; and

(c) discharge the duties solely in the interest of and for the benefit of the funds forming the unified investment program.

(2) (a) Retirement funds may be invested in common stocks of any corporation, except that an investment may not be made at any time that would cause the book value of the investments in any retirement fund to exceed 50% of the book value of the fund or that would cause the stock of one corporation to exceed 2% of the book value of the retirement fund.

(b) Other public funds may not be invested in private corporate capital stock. "Private corporate capital stock" means only the common stock of a corporation.

(3) (a) This section does not prevent investment in any business activity in Montana, including activities that continue existing jobs or create new jobs in Montana.

(b) The board is urged under the prudent expert principle to invest up to 3% of retirement funds in venture capital companies. Whenever possible, preference should be given to investments in those venture capital

companies that demonstrate an interest in making investments in Montana.

(c) In discharging its duties, the board shall consider the preservation of purchasing power of capital during periods of high monetary inflation.

(d) The board may not make a direct loan to an individual borrower. The purchase of a loan or a portion of a loan originated by a financial institution is not considered a direct loan.

(4) The board has the primary authority to invest state funds. Another agency may not invest state funds unless otherwise provided by law. The board shall direct the investment of state funds in accordance with the laws and constitution of this state. The board has the power to veto any investments made under its general supervision.

(5) The board shall:

(a) assist agencies with public money to determine if, when, and how much surplus cash is available for investment;

(b) determine the amount of surplus treasury cash to be invested;

(c) determine the type of investment to be made;

(d) prepare the claim to pay for the investment; and

(e) keep an account of the total of each investment fund and of all the investments belonging to the fund and a record of the participation of each treasury fund account in each investment fund.

(6) The board may:

(a) execute deeds of conveyance transferring all real property obtained through foreclosure of any investments purchased under the provisions of 17-6-211 when full payment has been received for the property;

(b) direct the withdrawal of any funds deposited by or for the state treasurer pursuant to 17-6-101 and 17-6-105;

(c) direct the sale of any securities in the program at their full and true value when found necessary to raise money for payments due from the treasury funds for which the securities have been purchased;

(d) expend funds needed to cover costs of necessary repairs to property owned by the board as an investment. ~~The expenditures may be made directly by the board and are statutorily appropriated, as provided in 17-7-502.~~ Repairs that cost in excess of \$2,500 must be bid, and the bid must be awarded in compliance with existing state law and regulations. Emergency repairs may be made by the board without bid if approved by the state architect.

(7) The cost of administering and accounting for each investment fund must be deducted from the income from each fund.

(8) At the beginning of each fiscal year, the board shall, from the appropriate fund, reimburse the department of commerce for the costs of administering programs established under Title 90, chapter 3, that are not covered by payback funds available from the account established in 90-3-305."

Section 25. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105; 2-18-812; 3-5-901; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; ~~10-4-301~~; 15-1-111; 15-23-706; 15-30-195; 15-31-702; 15-37-117; 15-38-202; ~~15-65-121~~; 15-70-101; 16-1-404; 16-1-406; ~~16-1-410~~; 16-1-411; 16-11-308; 17-3-106; 17-3-212; ~~17-5-404~~; ~~17-5-424~~; ~~17-5-804~~; 17-6-101; ~~17-6-201~~; 17-7-304; 18-11-112; 19-2-502; 19-6-709; 19-9-1007; 19-17-301; 19-18-512; 19-18-513; 19-18-606; ~~19-19-205~~; 19-19-305; 19-19-506; 20-8-107; 20-8-111; ~~20-9-361~~; 20-26-1503; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; ~~32-1-537~~; 37-43-204; 37-51-501; 39-71-503; 39-71-907; 39-71-2321; 39-71-2504; 44-12-206; 44-13-102; 50-4-623; ~~50-5-232~~; ~~50-40-206~~; ~~53-6-150~~; 53-6-703; 53-24-206; ~~60-2-220~~; 67-3-205; 75-1-1101; ~~75-5-1108~~; ~~75-6-214~~; 75-11-313; ~~76-12-123~~; 80-2-103; 80-2-222; 80-4-416; 81-5-111; ~~82-11-136~~; 82-11-161; ~~85-1-220~~; 85-20-402; ~~90-3-301~~; 90-4-215; 90-6-331; ~~90-7-220~~; ~~90-7-221~~; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for supplemental benefit; and pursuant to sec. 7(2), Ch. 29, L. 1995, the inclusion of 15-30-195 terminates July 1, 2001.)"

Section 26. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory

appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105; 2-18-812; 3-5-901; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; ~~15-1-111~~; 15-23-706; 15-30-195; 15-31-702; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411; 16-11-308; 17-3-106; 17-3-212; 17-5-404; 17-5-424; 17-5-804; 17-6-101; 17-6-201; 17-7-304; 18-11-112; 19-2-502; 19-6-709; 19-9-1007; 19-17-301; 19-18-512; 19-18-513; 19-18-606; 19-19-205; 19-19-305; 19-19-506; 20-8-107; 20-8-111; 20-9-361; 20-26-1503; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 32-1-537; 37-43-204; 37-51-501; 39-71-503; 39-71-907; 39-71-2321; 39-71-2504; 44-12-206; 44-13-102; 50-4-623; 50-5-232; 50-40-206; 53-6-150; 53-6-703; 53-24-206; 60-2-220; 67-3-205; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-12-123; 80-2-103; 80-2-222; 80-4-416; 81-5-111; 82-11-136; 82-11-161; 85-1-220; 85-20-402; 90-3-301; 90-4-215; 90-6-331; 90-7-220; 90-7-221; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for supplemental benefit; and pursuant to sec. 7(2), Ch. 29, L. 1995, the inclusion of 15-30-195 terminates July 1, 2001.)"

Section 27. Section 19-19-205, MCA, is amended to read:

"19-19-205. Actuarial valuation of police retirement fund. (1) The city treasurer shall submit to the department of administration before October 1 of each odd-numbered year all information requested by the department necessary to complete an actuarial valuation of the city's police retirement fund. The valuation ~~shall~~ must consider the actuarial soundness of the police retirement fund for the 2 preceding fiscal years.

(2) The valuation ~~is to~~ must be prepared by a qualified actuary selected by the department. A qualified actuary is a member of the American academy of actuaries or of any organization considered by the department to have similar standards.

(3) In each fiscal year in which an actuarial valuation is prepared, the department shall submit to the state ~~auditor treasurer~~ a request for payment of the expense incurred in securing the actuarial valuation. The expense may not exceed \$6,000 in any fiscal year. The state ~~auditor treasurer~~ shall make payment to the actuary designated in the request. ~~The payment is statutorily appropriated as provided in 17-7-502."~~

Section 28. Section 20-3-108, MCA, is amended to read:

"20-3-108. Division of resources and assessment ~~account~~ funds. ~~There is a resources and assessment account in the state special revenue fund. Funds derived from the sale of educational materials or services provided by the division of resources and assessment shall must be deposited in the resources and assessment account state general fund. In addition to other available funds, the superintendent of public instruction shall use these funds for the operation and maintenance of the division of resources and assessment as authorized by 20-3-106."~~

Section 29. Section 20-9-361, MCA, is amended to read:

"20-9-361. State and county County equalization revenue — statutory appropriation. (1) Revenue received in support of county equalization under the provisions of 20-9-331 and 20-9-333 is to be used for county equalization aid for the public schools, as provided by law, and must be accounted for in accordance with generally accepted accounting principles.

~~(2) Revenue received from the state equalization aid levy for a municipality that created an urban renewal area and adopted a tax increment financing provision for the urban renewal area prior to July 1, 1990, is statutorily appropriated, as provided in 17-7-502, to be distributed as provided in 20-9-360(2)."~~

Section 30. Section 32-1-537, MCA, is amended to read:

"32-1-537. Disposition of unclaimed funds. (1) The department shall certify to the state treasurer a complete list of funds remaining with it that are uncalled for and that have been left with it in its official capacity in trust for depositors in and creditors of a liquidated bank after they have been held by it for 6 months from the date of the final liquidation of the institution. Along with this certificate, the department shall transmit to the state treasurer the funds, with accumulated interest on them, that it has held in trust for 6 months. A copy of the certificate must also be filed with the state auditor, who shall make a record of it.

(2) The state treasurer shall deposit the funds and interest in the general fund.

(3) A depositor or creditor of a liquidated bank who has not been paid the amount standing to the person's credit as certified to the state treasurer may apply to the department for the amount due. The depositor or creditor shall make an affidavit and offer proof of identity and of the amount due. When satisfied as to the correctness of the claim and of the identity of the person, the department shall forward it to the state treasurer who shall audit the claim and, if found correct, certify the claim to the department. If the department approves the claim, it shall pay the claim to the depositor or creditor. ~~The money deposited in the general fund pursuant to this section is statutorily appropriated, as provided in 17-7-502, to the department for the purpose of paying approved claims."~~

Section 31. Section 39-71-503, MCA, is amended to read:

"39-71-503. Administration of fund -- appropriation. (1) The department shall administer the fund and shall pay all proper benefits to injured employees of underinsured and uninsured employers.

(2) Surpluses and reserves may not be kept for the fund. The department shall make payments that it considers appropriate as funds become available from time to time. The payment of weekly disability benefits takes preference over the payment of medical benefits. Lump-sum payments of future projected benefits, including impairment awards, may not be made from the fund. The board of investments shall invest the money of the fund, and the investment income must be deposited in the fund. The cost of administration of the fund must be paid out of the money in the fund.

(3) The amounts necessary for the payment of benefits from this fund are statutorily appropriated, as provided

in 17-7-502, from this fund."

Section 32. Section 39-71-531, MCA, is amended to read:

"39-71-531. Definition of underinsured employer. For purposes of 39-71-531 through ~~39-71-534~~ 39-71-533, the term "underinsured employer" means an employer who knowingly misrepresents the duties of an employee in order to pay lower workers' compensation rates than the employer would have been required to pay if the character of the employee's work had been properly classified. The term "knowingly" has the meaning as defined in 45-2-101."

Section 33. Section 39-71-533, MCA, is amended to read:

"39-71-533. Collection of payments from underinsured employer. If, upon demand of the department, an underinsured employer refuses to make the payments due under 39-71-532, the amount due may be collected by the department through suit. The department may settle through compromise with the underinsured employer the amount to be collected. Amounts collected under 39-71-532 and this section must be deposited in the account created in 39-71-502."

Section 34. Section 39-71-2354, MCA, is amended to read:

"39-71-2354. Use of old fund liability tax proceeds -- loans -- bonds. (1) ~~Taxes~~ Subject to 39-71-2503(2), taxes collected under 39-71-2503 may be used only to administer and pay claims for injuries resulting from accidents that occurred before July 1, 1990, including the cost of repaying bonds issued and loan proceeds given under 39-71-2355 and this section. If the state fund determines that, for the next 1 or more years following the date of the determination, the tax revenue, together with funds in the account required by 39-71-2321 for claims for injuries resulting from accidents that occurred before July 1, 1990, will be insufficient to administer and pay those claims, the state fund may, through its board of directors, request the budget director to certify to the board of investments that additional funding is necessary. If the budget director agrees with the state fund's board of directors that additional funding is necessary, the budget director shall certify to the board of investments the amount that the budget director determines is necessary to administer and pay claims for injuries resulting from accidents that occurred before July 1, 1990. Except as provided in subsection (2), the board of investments shall, at times and in amounts that it considers necessary or advisable, finance the amount certified by the budget director by giving the state fund the proceeds of a loan or a bond issue to administer and pay claims for injuries resulting from accidents that occurred before July 1, 1990. Loans must be from reserves accumulated from premiums paid to the state fund based upon wages payable on or after July 1, 1990. The board of investments shall choose the method of financing that is most cost-effective for the state fund. A loan must bear interest at the rate that the board of investments determines the money would earn if invested on behalf of the state fund. The board of investments may also, upon request of the board of directors of the state fund, give the state fund the proceeds of a bond issue, to be used to pay off loans made under 39-71-2355 and this section. Bonds for the state fund must be workers' compensation bonds issued under 39-71-2355.

(2) The total amount of loan proceeds given to the state fund plus workers' compensation bonds issued under 39-71-2355, except bonds issued to repay loans as provided for in subsection (1), may not exceed \$220 million. All loan and bond proceeds given to the state fund must be repaid to the board of investments before July 1,

2020."

Section 35. Section 39-71-2503, MCA, is amended to read:

"39-71-2503. Workers' compensation old fund liability tax. (1) (a) There is imposed on each employer, except an employer whose employees are covered by federal workers' compensation legislation, a workers' compensation old fund liability tax in an amount equal to 0.28%, plus the additional amount of old fund liability tax provided in 39-71-2505, of the wages paid by the employer:

(i) for the preceding payroll period for employers subject to the payment schedule contained in 15-30-204(1);

(ii) for the preceding month for employers subject to the payment schedule contained in 15-30-204(2); and

(iii) for the preceding year for employers subject to the payment schedule contained in 15-30-204(3)(a).

(b) There is imposed on each employee, except an employee who is covered by federal workers' compensation legislation, an old fund liability tax, as provided in 39-71-2505, on the employee's wages. An employer paying wages for services performed in Montana shall deduct and withhold the tax from the wages.

(c) (i) There is imposed on each business of a sole proprietor, on each subchapter S. corporation shareholder, on each partner of a partnership, and on each member or manager of a limited liability company a workers' compensation old fund liability tax, as provided in 39-71-2505, on the profit of each separate business of a sole proprietor and on the distributive share of ordinary income of each shareholder, partner, or member or manager derived from ongoing activities.

(ii) The tax imposed in this subsection (1)(c) applies only to the ordinary income of a shareholder, partner, member, or manager as the term "ordinary income" is defined in the Internal Revenue Code.

(iii) Partners of a publicly traded limited partnership are not subject to the tax imposed in this subsection (1)(c).

(d) A corporate officer of a subchapter S. corporation who receives wages as an employee of the corporation shall pay the old fund liability tax on both the wages and any distributive share of ordinary income at the employee rate. The subchapter S. corporation is not liable for the tax on the corporate officer's wages.

(e) A corporate officer of a closely held corporation who owns stock in a closely held corporation that meets the stock ownership test under section 542(a)(2) of the Internal Revenue Code and receives wages as an employee of the corporation is required to pay the old fund liability tax only on the wages received. The corporation is not liable for the tax on the corporate officer's wages.

(f) ~~This~~ The old fund liability tax deposited in the account established in 39-71-2504 must be used to reduce the unfunded liability in the state fund incurred for claims for injuries resulting from accidents that occurred before July 1, 1990. If one or more loans or bonds are outstanding, the legislature may not reduce the security for repayment of the outstanding loans or bonds, except that the legislature may forgive payment of a tax or reduce a tax rate for any 12-month period if the workers' compensation bond repayment account contains on the first day of that period an amount, regardless of the source, that is in excess of the reserve maintained in the account and that is equal to the amount needed to pay and dedicated to the payment of the principal, premium, and interest that must be paid during that period on the outstanding loans or bonds.

- (g) Each employer shall maintain the records that the department requires concerning the old fund liability tax. The records are subject to inspection by the department and its employees and agents during regular business hours.
- (h) An employee does not have any right of action against an employer for any money deducted and withheld from the employee's wages and paid to the state in compliance or intended compliance with this section.
- (i) The employer is liable to the state for any amount of old fund liability taxes, plus interest and penalty, when the employer fails to withhold from an employee's wages or fails to remit to the state the old fund liability tax required by this section.
- (j) A sole proprietor, subchapter S. corporation shareholder, partner of a partnership, or member or manager of a limited liability company is liable to the state for the old fund liability tax, plus interest and penalty, when the sole proprietor, shareholder, partner, or member or manager fails to remit to the state the old fund liability tax required by this section.
- (2) ~~All~~ After depositing 1.20% in the state general fund, all remaining collections of the tax must be deposited as received in the account. The tax is in addition to any other tax or fee assessed against persons subject to the tax.
- (3) (a) Tax payments and returns required by subsections (1)(a) and (1)(b) must be made pursuant to 15-30-204. ~~The~~ After depositing the portion of the tax in the state general fund, the department shall first credit a payment to the liability under 15-30-202 and shall then credit any remainder to the account provided for in 39-71-2504.
- (b) Tax payments due from sole proprietors, subchapter S. corporation shareholders, partners of partnerships, and members or managers of limited liability companies must be made with and at the same time as the returns filed pursuant to 15-30-144 and 15-30-241. ~~The~~ After depositing the portion of the tax in the state general fund, the department shall first credit a payment to the liability under 15-30-103 or 15-30-202 and shall then credit any remainder to the account provided for in 39-71-2504.
- (4) An employer's officer or employee with the duty to collect, account for, and pay to the department the amounts due under this section who fails to pay an amount is liable to the state for the unpaid amount and any penalty and interest relating to that amount.
- (5) Returns and remittances under subsection (3) and any information obtained by the department during an audit are subject to the provisions of 15-30-303, but the department may disclose the information to the department of labor and industry for the purpose of investigation and prevention of noncompliance, tax evasion, fraud, and abuse under the unemployment insurance laws, under circumstances and conditions that ensure the continued confidentiality of the information.
- (6) The department of labor and industry and the state fund shall give the department a list of all employers having coverage under any plan administered or regulated by the department of labor and industry and the state fund. The department of labor and industry and the state fund shall update the lists weekly. The department of labor and industry and the state fund shall provide the department with access to their computer data bases and paper files and records for the purpose of the department's administration of the tax imposed by this section.
- (7) The provisions of Title 15, chapter 30, that are not in conflict with the provisions of this part regarding administration, remedies, enforcement, collections, hearings, interest, deficiency assessments, credits for overpayment, statute of limitations, penalties, estimated taxes, and department rulemaking authority apply to the

tax, to employers, to employees, to sole proprietors, to subchapter S. corporation shareholders, to partners of partnerships, to members or managers of limited liability companies, and to the department."

Section 36. Section 39-71-2504, MCA, is amended to read:

"39-71-2504. Workers' compensation bond repayment account. (1) There is a workers' compensation bond repayment account in the enterprise fund.

(2) ~~After depositing 1.20% in the state general fund, all remaining~~ collections of the tax imposed under 39-71-2503 and the interest and penalties on the tax must, in accordance with the provisions of 15-1-501, be deposited in the workers' compensation bond repayment account. All money deposited in the workers' compensation bond repayment account must be retained in the account to the extent necessary to pay the principal of and the redemption premium and interest due on workers' compensation bonds issued under 39-71-2354 and 39-71-2355 and to establish and maintain a reserve for the bonds equal to the maximum annual principal of and interest on the bonds in any future year. The balance in the workers' compensation bond repayment account is statutorily appropriated, as provided in 17-7-502, to the state fund to be used to reduce the unfunded liability in the state fund incurred for claims for injuries resulting from accidents that occurred before July 1, 1990."

Section 37. Section 49-2-510, MCA, is amended to read:

"49-2-510. Procedures and remedies for enforcement of housing discrimination laws. (1) A complaint may be filed with the commission by or on behalf of a person claiming to be aggrieved by any discriminatory practice prohibited by 49-2-305. The complaint must be in written form and must be filed with the commission within 1 year after the alleged unlawful discriminatory practice occurred or was discovered.

(2) (a) Except as provided in subsection (2)(b), if the commission, in a hearing under 49-2-505, finds that a person, institution, entity, or agency against whom a complaint was filed under this part has engaged in a discriminatory practice in violation of 49-2-305, the commission may, in addition to the remedies and injunctive and other equitable relief provided by 49-2-506, to vindicate the public interest, assess a civil penalty:

(i) in an amount not exceeding \$10,000 if the respondent has not been found to have committed any prior discriminatory housing practice in violation of 49-2-305;

(ii) in an amount not exceeding \$25,000 if the respondent has been found to have committed one other discriminatory housing practice in violation of 49-2-305 during the 5-year period ending on the date of the filing of the complaint; and

(iii) in an amount not exceeding \$50,000 if the respondent has been found to have committed two or more discriminatory housing practices in violation of 49-2-305 during the 7-year period ending on the date of the filing of the complaint.

(b) If the acts constituting the discriminatory housing practice that is the object of the complaint are committed by the same natural person who has been previously found to have committed acts constituting a discriminatory housing practice, the civil penalties provided in subsections (2)(a)(ii) and (2)(a)(iii) may be imposed without regard to the period of time within which any prior discriminatory housing practice occurred.

(3) In the case of an order with respect to a discriminatory housing practice in violation of 49-2-305 that occurred in the course of a business subject to licensing or regulation by a governmental agency, the commission shall, no later than 30 days after the date of the issuance of the order or, if the order is judicially reviewed, no later than 30 days after the order is in substance affirmed:

(a) send copies of the findings of fact, the conclusions of law, and the order to the licensing or regulatory agency; and

(b) recommend to the licensing or regulatory agency appropriate disciplinary action, including, ~~where~~ when appropriate, the suspension or revocation of the license of the respondent.

(4) (a) When a complaint is filed under 49-2-305, a complainant, respondent, or aggrieved person on whose behalf the complaint was filed may elect to have the claims decided in a civil action in lieu of a hearing under 49-2-505. The election must be made no later than 20 days after receipt by the electing person of service of notice of certification for hearing under 49-2-505. The person making the election shall give notice to the commission and to all other complainants and respondents to whom the complaint relates. Within 30 days after the election is made, the commission shall commence a civil action in an appropriate district court on behalf of the aggrieved person if the commission staff has made a finding that the allegations of the complaint are supported by substantial evidence. If the commission staff has made a finding that the allegations of the complaint are not supported by substantial evidence, the complainant may commence a civil action in an appropriate district court in accordance with subsection (5). An aggrieved person with respect to the issues to be determined in a civil action brought by the commission staff may intervene in the action.

(b) The commission may not continue administrative proceedings on a complaint after an election is made in accordance with subsection (4)(a).

(5) (a) An aggrieved person may commence a civil action in an appropriate district court within 2 years after an alleged unlawful discriminatory practice under 49-2-305 occurred or was discovered or within 2 years of the breach of a conciliation agreement entered into under 49-2-504 in a case alleging a violation of 49-2-305. The computation of the 2-year period does not include any time during which an administrative proceeding under this title was pending with respect to a complaint alleging a violation of 49-2-305. The tolling of the time limit for commencing a civil action does not apply to actions arising from breach of a conciliation agreement.

(b) An aggrieved person may commence a civil action under this subsection for a violation of 49-2-305 whether or not a complaint has been filed under 49-2-501 and without regard to the status of a complaint filed with the commission, except as provided in subsection (5)(d). If the commission has obtained a conciliation agreement with the consent of the aggrieved person, an action may not be filed under this subsection by the aggrieved person regarding the alleged violation of 49-2-305 that forms the basis for the complaint except for the purpose of enforcing the terms of the agreement.

(c) The commission may not continue administrative proceedings on a complaint after the beginning of a trial of a civil action commenced by the aggrieved party under this subsection (5) seeking relief with respect to the same alleged violation of 49-2-305.

(d) An aggrieved person may not commence a civil action under this subsection (5) with respect to an alleged violation of 49-2-305 if the commission has commenced a hearing on the record under 49-2-505 regarding the same complaint.

(e) Upon application by a person alleging a violation of 49-2-305 in a civil action under this subsection (5) or by a person against whom the violation is alleged, the court may:

- (i) appoint an attorney for the applicant; or
 - (ii) authorize the commencement or continuation of a civil action without the payment of fees, costs, or security if, in the opinion of the court, the applicant is financially unable to bear the costs of the civil action.
- (f) Upon timely application, the commission may intervene in a civil action brought under this subsection (5) if the commission certifies that the case is of general public importance. Upon intervention, the commission may obtain the same relief that would be available to the commission under subsection (7).
- (6) If the court finds that a person, institution, entity, or agency against whom a complaint was filed under this section has engaged in a discriminatory practice in violation of 49-2-305, the court may, in addition to the other remedies and injunctive and other equitable relief provided under 49-2-506, award punitive damages. The court may also award attorney fees to the prevailing party.
- (7) (a) Whenever the commission has reasonable cause to believe that a person or group of persons is engaged in a pattern or practice in violation of 49-2-305 or that a group of persons has been discriminated against in violation of 49-2-305 and the denial raises an issue of general public importance, the commission may commence a civil action in an appropriate district court. The commission may also commence a civil action in any appropriate district court for relief regarding breach of a conciliation agreement in a case regarding an alleged violation of 49-2-305 if the commission is a party to the agreement.
- (b) The commission may file a civil action under this subsection (7) within 18 months after the alleged breach of the conciliation agreement or unlawful discriminatory practice occurred or was discovered.
- (c) In a civil action under this subsection (7), the court may, in addition to the remedies provided under 49-2-506, assess a civil penalty against the respondent:
- (i) in an amount not exceeding \$50,000 for a first violation; and
 - (ii) in an amount not exceeding \$100,000 for any subsequent violation.
- (d) Upon timely application, a person may intervene in a civil action under this subsection (7) that involves an alleged violation of 49-2-305 with respect to which the intervenor is an aggrieved person.
- (8) Civil penalties under this section must be paid to the state treasurer to be deposited in ~~an account in the state special revenue general fund to be used by the commission for housing discrimination enforcement.~~

Section 38. Section 50-5-112, MCA, is amended to read:

"50-5-112. Civil penalties. (1) A person who commits an act prohibited by 50-5-111 is subject to a civil penalty not to exceed \$1,000 for each day that a facility is in violation of a provision of part 1 or 2 of this chapter or of a rule, license provision, or order adopted or issued pursuant to part 1 or 2. The department or, upon request of the department, the county attorney of the county in which the health care facility in question is located may petition the court to impose the civil penalty. Venue for an action to collect a civil penalty pursuant to this section is in the county in which the facility is located or in the first judicial district.

(2) In determining the amount of penalty to be assessed for an alleged violation under this section, the court shall consider:

- (a) the gravity of the violation in terms of the degree of physical or mental harm to a resident or patient;
 - (b) the degree of harm to the health, safety, rights, security, or welfare of a resident or patient; ~~and~~
 - (c) the degree of deviation committed by the facility from a requirement imposed by part 1 or 2 of this chapter or by a rule, license provision, or order adopted or issued pursuant to part 1 or 2; and
 - ~~(b)~~(d) other matters as justice may require.
- (3) A penalty collected under this section must be deposited in the ~~patient protection account provided for in 50-5-232~~ state general fund.
- (4) In addition to or exclusive of the remedy provided in subsection (1), the department may pursue remedies available for a violation, as provided for in 50-5-108, or any other remedies available to it."

Section 39. Section 50-5-113, MCA, is amended to read:

"50-5-113. Criminal penalties. (1) A person is guilty of a criminal offense under this section if the person knowingly conceals material information about the operation of the facility or does any of the following and by doing so threatens the health or safety of one or more individuals entrusted to the care of the person:

- (a) commits an act prohibited by 50-5-111;
 - (b) omits material information or makes a false statement or representation in an application, record, report, or other document filed, maintained, or used for compliance with the provisions of part 1 or 2 of this chapter or with rules, license provisions, or orders adopted or issued pursuant to part 1 or 2;
 - (c) destroys, alters, conceals, or fails to file or maintain any record, information, or application required to be maintained or filed in compliance with a provision of part 1 or 2 of this chapter or in compliance with a rule, license provision, or order adopted or issued pursuant to part 1 or 2.
- (2) A person convicted under subsection (1) is subject to a fine of not more than \$1,000 for the first offense and not more than \$2,000 for each subsequent offense for each day that a facility is in violation of a provision of part 1 or 2 of this chapter or of a rule, license provision, or order adopted or issued pursuant to part 1 or 2.
- (3) In determining the amount of penalty to be assessed for an alleged violation under this section, the court shall consider:
- (a) the gravity of the violation in terms of the degree of physical or mental harm to a resident or patient;
 - (b) the degree of harm to the health, safety, rights, security, or welfare of a resident or patient; ~~and~~
 - (c) the degree of deviation committed by the facility from a requirement imposed by part 1 or 2 of this chapter or by a rule, license provision, or order adopted or issued pursuant to part 1 or 2; and
 - ~~(b)~~(d) other matters as justice may require.
- (4) Prosecution under this section does not bar enforcement under any other section of this chapter or pursuit of

any other appropriate remedy by the department.

(5) Venue for prosecution pursuant to this section is in the county in which the facility is located or in the first judicial district.

(6) A penalty collected under this section must be deposited in the ~~patient protection account provided for in 50-5-232~~ state general fund."

Section 40. Section 50-5-232, MCA, is amended to read:

"50-5-232. Patient protection account -- deposit of funds. (1) There is a patient protection account in the state special revenue fund. ~~The money in the account is statutorily appropriated to the department as provided in 17-7-502.~~

(2) There is deposited in the patient protection account:

~~(a) penalties collected pursuant to part 1 or 2 of this chapter;~~

~~(b) money received by the department in the form of gifts, grants, reimbursements, or appropriations from any source that are intended to be used for the purposes of the account; and~~

~~(c) interest earned on money in the account.~~

(3) The funds deposited in the patient protection account may be used only:

(a) to pay for the costs of a receivership; and

(b) to pay for the cost of department-initiated relocation of residents.

(4) Penalties collected pursuant to part 1 or 2 of this chapter must be deposited in the state general fund."

Section 41. Section 50-40-206, MCA, is amended to read:

"50-40-206. Special revenue account -- donations for smoking areas -- statutory appropriation. (1) There is an account in the state special revenue fund for the establishment of designated smoking areas pursuant to 50-40-204.

(2) The department of administration is authorized to accept donations to pay for the establishment of or improvements to designated smoking areas in state buildings and shall deposit any donations into the special revenue account established in subsection (1).

(3) The money in the special revenue account ~~established in subsection (1) is statutorily appropriated, as provided in 17-7-502, to~~ must be used by the department of administration to pay for the establishment of or improvements to designated smoking areas pursuant to 50-40-204."

Section 42. Section 53-6-150, MCA, is amended to read:

"53-6-150. ~~Statutory appropriation of donated~~ Donated funds. ~~(1)~~ The department of public health and human services may receive private funds and nonfederal and nonstate public funds for its medical assistance programs. Donated funds must be matched with federal funds whenever possible.

~~(2) Funds donated to the department for its medical assistance programs are statutorily appropriated to the department as provided in 17-7-502."~~

Section 43. Section 53-19-310, MCA, is amended to read:

"53-19-310. ~~Fund Account~~ for telecommunications services for the handicapped. (1) There is an account for telecommunications services for the handicapped in the state special revenue fund in the state treasury. The account consists of:

~~(a)~~ all monetary contributions, gifts, and grants received by the committee as provided in 53-19-309; ~~and~~

~~(b) all charges billed and collected pursuant to 53-19-311.~~

(2) The money in the account is allocated to the committee for purposes of implementing this part.

~~(3) All expenditures of the committee in administering this part must be paid from money deposited in the account."~~

Section 44. Section 53-19-311, MCA, is amended to read:

"53-19-311. Special assessment. (1) A charge of 10 cents a month may be assessed on each telephone access line provided and billed by each local exchange company and is imposed for the purposes of this part.

(2) Each customer of a local exchange company is liable for payment to the local exchange company of any charge properly imposed pursuant to this part. The local exchange company is not liable for any uncollected charge, nor does the company have an obligation to take legal action to enforce the collection of any charge that is unpaid by its customers.

(3) Each local exchange company shall bill each customer for the charge provided for in subsection (1). Except as provided in subsection (4), all charges billed and collected by a local exchange company must be transmitted to the state treasurer no later than the last day of the month following the end of each calendar quarter in which the charge is billed. All charges received by the state treasurer must be deposited in the state general fund ~~established in 53-19-310 to the credit of the committee.~~

(4) Each local exchange company may deduct and retain 3/4 of 1% of the total charges billed and collected each month to cover its administrative expenses in complying with the requirements of subsection (3)."

Section 45. Section 53-24-108, MCA, is amended to read:

"53-24-108. ~~Utilization~~ Use of funds generated by taxation on alcoholic beverages. (1) Revenue generated by 16-1-404, 16-1-406, ~~16-1-408~~, and 16-1-411 to state-approved private, nonprofit or public programs whose function is the treatment, rehabilitation, and prevention of alcoholism may be distributed in either of the following manners:

(a) as payment of fees for alcoholism services provided by state-approved private, nonprofit or public alcoholism programs and licensed hospitals for detoxification services; or

(b) as grants to state-approved private, nonprofit or public alcoholism programs.

(2) State-approved private chemical programs organized for profit are not eligible for revenue generated by 16-1-404, 16-1-406, ~~16-1-408~~, and 16-1-411.

(3) ~~No~~ A person operating a state-approved alcoholism program may not be required to provide matching funds as a condition of receiving a grant under subsection (1) ~~of this section~~.

(4) In addition to funding received under this section, a person operating a state-approved alcoholism program may accept gifts, bequests, or the donation of services or money for the treatment, rehabilitation, or prevention of alcoholism.

(5) ~~No~~ A person receiving funding under this section to support operation of a state-approved alcoholism program may not refuse alcoholism treatment, rehabilitation, or prevention services to a person solely because of that person's inability to pay for those services.

(6) A grant made under this section is subject to the following conditions:

(a) The grant application must contain an estimate of all program income, including income from earned fees, gifts, bequests, donations, and grants from other than state sources during the period for which grant support is sought.

(b) Whenever, during the period of grant support, program income exceeds the amount estimated in the grant application, the amount of the excess ~~shall~~ must be reported to the grantor.

(c) The excess ~~shall~~ must be used by the grantee under the terms of the grant in accordance with one or a combination of the following options:

(i) use for any purpose that furthers the objectives of the legislation under which the grant was made; or

(ii) to allow program growth through the expansion of services or for capital expenditures necessary to improve facilities where services are provided.

(7) Revenue generated by 16-1-404, 16-1-406, ~~16-1-408~~, and 16-1-411 for the treatment, rehabilitation, and prevention of alcoholism ~~which that~~ has not been encumbered for those purposes by the counties of Montana or the department ~~shall~~ must be returned to the state special revenue fund for the treatment, rehabilitation, and prevention of alcoholism within 30 days after the close of each fiscal year and ~~will~~ must be distributed by the department the following year as provided in 53-24-206(3)(b)."

Section 46. Section 60-2-220, MCA, is amended to read:

"60-2-220. Butte-Anaconda cultural heritage area -- signs -- location and design -- funding. (1) There is established a cultural heritage area encompassing Silver Bow County and Deer Lodge County.

(2) Subject to the provisions of federal law, the department shall, as funds are available under subsection (4), erect and maintain at specified locations on the primary and interstate highways in Silver Bow County and Deer Lodge County signs identifying those counties as a cultural heritage area.

(3) The consolidated governments of Butte-Silver Bow and Anaconda-Deer Lodge shall design the signs and designate the general locations for the signs. The department shall determine the exact location of each sign.

(4) The department may accept money from other state agencies, federal agencies, local governments, or private persons for the purposes of subsections (2) and (3) and may expend, ~~as a statutory appropriation under 17-7-502,~~ the money received for those purposes.

(5) As used in this section, "department" means the department of transportation provided for in 2-15-2501."

Section 47. Section 60-11-120, MCA, is amended to read:

"60-11-120. Railroad and intermodal transportation facility loans and grants -- authorization -- eligibility. (1) Money ~~deposited in the special railroad facilities and intermodal transportation facilities account created in 60-11-122~~ appropriated by the legislature may be used by the department of transportation, after deducting the necessary costs and expenses for administering this section, to provide loans and grants for the preservation and continued operation of railroad branch lines identified in 60-11-111 and for the development and improvement of intermodal transportation facilities. Proceeds of all repayments of loans, including interest, made under this section must be deposited in the ~~special railroad facilities and intermodal transportation facilities account~~ state general fund.

(2) An owner or operator of a railroad identified in 60-11-111(2) is eligible for a loan or grant under this section ~~provided that~~ if the owner or operator:

(a) undertakes to repair, improve, or replace rail facilities to allow the continued operation of the railroad for local rail transportation service; and

(b) derives revenue from the continued operation of the railroad.

(3) A port authority created under Title 7, chapter 14, part 11, is eligible for a loan or grant under this section for the development or improvement of an intermodal transportation facility under this section ~~provided that~~ if:

(a) the port authority is included in the state transportation planning process as described in 23 U.S.C. 135; and

(b) the intermodal transportation facility for which a loan or grant is sought is integrally related to the railroad transportation system of the state."

Section 48. Section 60-11-123, MCA, is amended to read:

"60-11-123. Disposition of revenue from state-owned railroads -- use of money. (1) Unless otherwise required by law, revenue from the lease or sale of assets of or revenue paid to the state of Montana by an operator of a railroad owned by the state of Montana must be deposited in the ~~special railroad facilities and intermodal transportation facilities account created in 60-11-122~~ state general fund.

(2) The department of transportation is authorized to administer, as provided in 60-11-120 through 60-11-123, ~~the special railroad facilities and intermodal transportation facilities account created in 60-11-122~~ funding available to provide for improvement of railroad tracks and associated facilities of any state-owned railroad in Montana and to provide loans and grants to railroad lines and intermodal transportation facilities as provided in 60-11-120."

Section 49. Section 61-3-509, MCA, is amended to read:

"61-3-509. Disposition of taxes. (1) Except as provided in subsection (2), the county treasurer shall, after deducting the district court fee, credit all taxes on motor vehicles and fees in lieu of tax on motorcycles, motor homes, travel trailers, and campers collected under 61-3-504, 61-3-521, 61-3-527, and 61-3-537 to a motor vehicle suspense fund, and at some time between March 1 and March 10 of each year and every 60 days after that date, the county treasurer shall distribute the money in the motor vehicle suspense fund in the relative proportions required by the levies for state, county, school district, and municipal purposes in the same manner as personal property taxes are distributed.

(2) The county treasurer shall deduct as a district court fee 7% of the amount of the 2% tax collected on an automobile or truck having a rated capacity of 1 ton or less. The county treasurer shall credit the fee for district courts to a separate suspense account and shall forward the amount in the account to the state treasurer at the time that the county treasurer distributes the motor vehicle suspense fund. The state treasurer shall credit amounts received under this subsection to the ~~general~~ state special revenue fund to be used for purposes of state funding of the district court expenses as provided in 3-5-901."

Section 50. Section 61-5-121, MCA, is amended to read:

"61-5-121. Disposition of fees. (1) The disposition of the fees from driver's licenses ~~provided for in 61-5-111(7)(a)~~, motorcycle endorsements ~~provided for in 61-5-111(7)(b)~~, commercial driver's licenses ~~provided for in 61-5-111(7)(c)~~, and duplicate driver's licenses provided for in 61-5-114 is as follows:

(a) The amount of ~~25%~~ 16.7% of each driver's license fee and ~~25%~~ of each duplicate driver's license fee must be deposited into an account in the state special revenue fund. The department shall transfer the funds from this account to the Montana highway patrol officers' retirement pension trust fund as provided in 19-6-404.

(b) (i) If the fees are collected by a county treasurer or other agent of the department, the amount of ~~3.75%~~ 2.5% of each driver's license fee and ~~3.75%~~ of each duplicate driver's license fee must be deposited into the county general fund.

(ii) If the fees are collected by the department, the amount provided for in subsection (1)(b)(i) must be deposited into the state general fund.

- (c) (i) If the fee is collected by a county treasurer or other agent of the department, the amount of ~~5%~~ 3.34% of each motorcycle endorsement must be deposited into the county general fund.
- (ii) If the fee is collected by the department, the amount provided for in subsection (1)(c)(i) must be deposited into the state general fund.
- (d) The amount of 26.25% of each driver's license fee and 8.75% of each duplicate driver's license fee must be deposited into the state traffic education account.
- (e) In addition to the amounts deposited pursuant to subsections (1)(b)(ii) and (1)(c)(ii), the amount of 54.55% of each driver's license fee and 62.5% of each duplicate driver's license fee must be deposited into the state general fund.
- (f) If the fee is collected by the county treasurer or other agent of the department, the amount of ~~3.75%~~ 2.5% of each commercial driver's license fee must be deposited into the county general fund, otherwise all of the fee must be deposited in the state general fund.
- (g) The amount of ~~95%~~ 63.46% of each motorcycle endorsement fee must be deposited into the state traffic education account in the state special revenue fund, and the amount of 33.2% of each motorcycle endorsement fee must be deposited into the state general fund.
- (2) (a) If fees from driver's licenses, commercial driver's licenses, motorcycle endorsements, and duplicate driver's licenses are collected by a county treasurer or other agent of the department, the county treasurer or agent shall deposit the amounts provided for in subsections (1)(b)(i) and (1)(c)(i) into the county general fund. The county treasurer or agent shall then remit to the state treasurer all remaining fees, together with a statement indicating what portion of each fee is to be deposited into the account in the state special revenue fund, as provided in subsection (1)(a), and the state general fund. The state treasurer, upon receipt of the fees and statement, shall deposit the fees as provided in subsections (1)(a) and (1)(d) through (1)(g).
- (b) If fees from driver's licenses, commercial driver's licenses, motorcycle endorsements, and duplicate driver's licenses are collected by the department, it shall remit all fees to the state treasurer, together with a statement indicating what portion of each fee is to be deposited into the account in the state special revenue fund as provided in subsection (1)(a), the state special revenue fund, and the state general fund. The state treasurer, upon receipt of the fees and statement, shall deposit the fees as provided in subsections (1)(a), (1)(b)(ii), (1)(c)(ii), and (1)(d) through (1)(g)."

Section 51. Section 75-5-1108, MCA, is amended to read:

"75-5-1108. ~~Statutory appropriation~~ Use of funds. Money in the revolving fund ~~is statutorily appropriated, as provided in 17-7-502, must be used for the purposes of making loans to municipalities and private concerns and paying debt service on obligations. Money in the special administrative costs account authorized by 75-5-1113 is subject to legislative appropriation constraints, and expenditures from this account must be made from temporary appropriations, as described in 17-7-501(1) or (2), made for that purpose."~~

Section 52. Section 75-6-214, MCA, is amended to read:

"75-6-214. ~~Statutory appropriation~~ Use of funds. Money in the revolving fund ~~is statutorily appropriated, as provided in 17-7-502,~~ must be used for the purposes of providing financial assistance to public water systems. Money in the administration account authorized by 75-6-211 is subject to legislative appropriation, and expenditures from this account must be made from temporary appropriations, as described in 17-7-501(1) or (2), that are made for that purpose."

Section 53. Section 75-10-954, MCA, is amended to read:

"75-10-954. Megalandfill reclamation account -- deposit of funds. (1) There is a megalandfill reclamation account in the state special revenue fund provided for in 17-2-102.

(2) All ~~fees, fines, penalties, forfeited bonds, and other money~~ that have been or will be paid to the department under the provisions of 75-10-950 through 75-10-954 must be deposited in the account.

(3) Money in the account is available to the department for the reclamation, restoration, and replacement of natural resources damaged or impaired by the megalandfill. Unencumbered and unexpended money remaining in the account at the end of a fiscal year may not lapse but must be carried forward for the purposes of this subsection until appropriated by subsequent legislative action.

(4) All fees, fines, penalties, and other money paid to the department under the provisions of 75-10-950 through 75-10-954 must be deposited in the state general fund."

Section 54. Section 76-12-123, MCA, is amended to read:

"76-12-123. Natural areas account. (1) There is a natural areas special revenue account within the state special revenue fund established in 17-2-102.

(2) The natural areas account may receive funds from any source as gifts.

(3) The department may spend funds accepted as gifts in accordance with the purposes of this part, including administration of a natural areas program. ~~These funds, except funds used for administration of a program, are statutorily appropriated, as provided in 17-7-502."~~

Section 55. Section 77-2-323, MCA, is amended to read:

"77-2-323. Sale procedure and limitation. (1) At the time fixed for the sale, the lands ~~shall~~ must be offered for sale at auction in the order that they appear in the notice of sale. Under the direction of the department, the lands ~~shall~~ must be sold to the highest qualified bidder under the following restrictions:

(a) ~~No lands~~ Lands may not be sold for less than the value determined by the board after appraisal by a qualified land appraiser.

(b) Tillable lands capable of producing agricultural crops may not be sold for less than \$10 ~~per~~ an acre.

(c) Lands principally valuable for grazing purposes may not be sold for less than \$5 ~~per~~ an acre.

(2) The lands ~~shall~~ must be sold as nearly as practicable according to the subdivisions in which they are advertised, and care ~~shall~~ must be taken not to subdivide any tract in such a way as to separate remaining portions from a water supply or from section lines or public highways.

(3) The sale may be adjourned from day to day until all the lands advertised have been offered for sale.

(4) If any successful bidder at a sale refuses or neglects to make the initial payment required to be made on the land purchased ~~by him, he~~ the successful bidder shall forfeit to the state not less than \$50 or more than \$1,000, to be determined by the board according to the circumstances of the case. If ~~such~~ the forfeiture is not paid when notice of the amount of the forfeiture has been served by the department, the attorney general shall sue for the recovery ~~thereof~~ of the amount in the name of the state. The forfeiture amount must be deposited in the state general fund."

Section 56. Section 77-2-328, MCA, is amended to read:

"77-2-328. Additional rules -- deposit of fees. The board may prescribe ~~such~~ any additional rules for the conduct of these sales as in its judgment the interests of the state may demand. Any fees collected by a rule adopted pursuant to this section must be deposited in the state general fund."

Section 57. Section 77-5-305, MCA, is amended to read:

"77-5-305. Responsibility for compliance -- penalties -- administrative orders. (1) (a) Except as provided in subsection (1)(b), it is the responsibility of the owner to ensure compliance with the provisions of this part and rules adopted pursuant to this part.

(b) If a written contract between an owner and an operator specifies that the operator is responsible for compliance with laws relating to forest practices, the operator is considered the responsible party for all enforcement actions taken by the department under this section.

(2) A person who violates a provision of this part, a rule adopted pursuant to this part, or an order issued under this section shall be subject to a civil penalty not to exceed \$1,000. Each day of violation constitutes a separate violation.

(3) (a) When the department determines that an owner or operator has violated a provision of this part or a rule adopted pursuant to this part and has caused damage to watershed or wildlife resources, the department may serve an order requiring the person responsible for the conduct of forest practices to undertake necessary site rehabilitation within a reasonable period of time stated in the order. The order must specify the nature of the violation and the damage or unsatisfactory condition resulting from the violation.

(b) The order becomes final unless, within 30 days after the notice is served, the person named requests in writing a hearing before the department. On receipt of the request, the department shall schedule a hearing. Service by mail is complete on the date of mailing.

(c) If, after a hearing, the department finds that a violation has occurred and the watershed or wildlife habitat

damage warrants site rehabilitation, it shall affirm or modify the order previously issued. If the department finds that a violation has not occurred or that site rehabilitation is not warranted, it shall rescind the order.

(d) The department may include in an order a provision that the owner or operator immediately cease causing further damage and take immediate action to alleviate the damage or to prevent future damage. The department may institute an action for injunctive relief under Title 27, chapter 19, if the recipient of the order does not comply with it.

(4) Subsection (3) does not prevent the department from seeking voluntary compliance and site rehabilitation through warning, conference, or any other appropriate means.

(5) All fines and penalties levied under this section must be deposited in the state general fund."

Section 58. Section 82-11-136, MCA, is amended to read:

"82-11-136. Expenditure of funds from bonds for plugging wells. The board may accept and expend all funds received by it from bonds for properly plugging dry or abandoned wells as authorized in 82-11-123(5). ~~These funds are statutorily appropriated as provided in 17-7-502.~~"

Section 59. Section 85-1-220, MCA, is amended to read:

"85-1-220. State water project hydroelectric power generation special revenue account created -- ~~revenues~~ revenue allocated. (1) There is a state water project hydroelectric power generation special revenue account within the state special revenue fund established in 17-2-102.

(2) Except as provided in the applicable bond resolution, all ~~revenues~~ revenue derived from hydroelectric power generation at state water conservation projects under Title 85, chapter 1, must be paid into this account as received.

(3) The ~~revenues~~ revenue received under this section must be used to repair and rehabilitate state-owned water projects and works and to pay the cost of financing those activities.

(4) The funds deposited in the state water project hydroelectric power generation special revenue account under this section but not appropriated during the biennium and money appropriated from the account but not expended during the biennium for which it is appropriated must remain in the account for future appropriation under this section and may not be appropriated from the account except as authorized under this section.

~~(5) There is a statutory appropriation pursuant to 17-7-502 to allow the department to transfer available funds from the state water project hydroelectric power generation special revenue account when needed to pay debt service on state water project bonds, including but not limited to broadwater power project bonds.~~

~~(6) There is a statutory appropriation pursuant to 17-7-502 for the department to transfer available funds from the broadwater replacement and renewal account when needed to pay debt service on the broadwater power project bonds."~~

Section 60. Section 90-3-301, MCA, is amended to read:

"90-3-301. ~~Appropriation~~ Spending authority and funding -- matching funds. (1) The board has authority to accept and expend all funds received by it as grants, donations, or other private or public income. ~~These funds are statutorily appropriated as provided in 17-7-502.~~

(2) The appropriations and loans made to and by the board are in addition to and separate from general fund appropriations to the university system and other state agencies.

(3) A loan may not be made for a seed capital project for which matching funds have not been received. Matching funds are required prior to any expenditure of board funds for all seed capital projects. The board may accept as matching funds those received by the loan recipient within 1 year prior to the execution of the loan agreement. The board may require additional matching funds, depending on the capital need and the degree of risk encountered in the seed capital project.

(4) A loan may not be made for a research and development project for which matching funds have not been received unless the matching fund requirements are waived by the board pursuant to this section. Matching funds, when required, must be received before expenditure of board funds for a research and development project loan may be made. The board may waive the required match for up to 25% of the funding for research and development project loans if the board determines that the capital need and potential commercialization of the research and development project, in addition to its potential to strengthen the partnership between the public sector and private sector, warrant the waiver. The board may accept as matching funds those received by the loan recipient within 1 year prior to the execution of the loan agreement. The board may require additional matching funds depending on the capital need in the research and development project."

Section 61. Section 90-7-220, MCA, is amended to read:

"90-7-220. Montana developmental center loan. (1) The department of public health and human services may enter into a loan agreement with the Montana health facility authority for the purpose of financing the costs of acquiring, constructing, and equipping facilities for persons with developmental disabilities at the Montana developmental center in Boulder, including the establishment of reserves and the payment of costs of the financing. The maximum principal amount of the loan may not exceed \$10.5 million for construction and related costs, plus the necessary amounts for capitalized interest, debt service reserves, and financing costs, and the loan must be payable over a term of not to exceed 30 years and must bear interest and contain other terms and provisions with respect to prepayment or otherwise as are not inconsistent with this section and as the department approves. Investment earnings on the authority's bonds or on funds held for the bonds must be used to pay the principal and interest on the loan as provided in the loan agreement.

(2) The loan may be secured by a mortgage on the Montana developmental center facility, including the land on which it is located. The loan constitutes a special limited obligation of the department, and the principal and interest payments required by that agreement are payable solely from the facility revenues obtained by the department from the ownership and operation of and the provision of services at the Montana developmental center, including payments or reimbursements from private users, insurers, and the federal government. All facility revenues obtained from services provided by the Montana developmental center must be deposited in a special revenue fund and must be applied to the payment of the principal and interest payments as due under the loan agreement. ~~Principal and interest payments constitute a statutory appropriation within the meaning of 17-7-502.~~ Whenever the foregoing facility revenues exceed the amount and terms specified and required to repay the

loan and maintain required reserves, the excess must be deposited to the general fund. As long as the loan remains outstanding and the department provides services for persons with developmental disabilities, the department shall use the Montana developmental center for those purposes or for other purposes as permitted by the loan agreement and state law, except when foreclosure occurs under the agreement or the mortgage. Notwithstanding 77-2-302(1) and upon foreclosure of a mortgage given to secure the loan agreement, there must be paid to the board of land commissioners as a first and prior claim against the mortgaged land an amount equal to the full market value of the land as determined by the board prior to the execution of the mortgage and after appraisal by a qualified land appraiser. The loan agreement may contain other provisions or agreements that the department determines are necessary and that are not inconsistent with the provisions of Title 90, chapter 7.

(3) The obligations of the department under the agreement are special limited obligations payable solely from the facility revenues and do not constitute a debt of the state or obligate the state to appropriate or apply any funds or revenues of the state, except the facility revenues as provided in this section."

Section 62. Section 90-7-221, MCA, is amended to read:

"90-7-221. Montana state hospital loan. (1) The department of public health and human services may enter into a loan agreement with the authority for the purpose of financing the costs of acquiring, constructing, and equipping facilities for the mentally ill at the Montana state hospital in Warm Springs, including the establishment of reserves and the payment of costs of the financing. The maximum principal amount of the loan may not exceed \$21 million for construction and related costs, plus the necessary amounts for capitalized interest, debt service reserves, and financing costs. The loan must be payable over a term not to exceed 25 years and must bear interest and contain other terms and provisions with respect to prepayment or otherwise that are not inconsistent with this section and that the department approves. Investment earnings on the authority's bonds or on funds held for the bonds must be used to pay the principal and interest on the loan as provided in the loan agreement.

(2) The loan may be secured by a mortgage on the Montana state hospital facility, including the land on which it is located. The loan constitutes a special limited obligation of the department, and the principal and interest payments required by that agreement are payable from the facility revenue obtained by the department from the ownership and operation of and the provision of services at the Montana state hospital and the Montana mental health nursing care center, including payments or reimbursements from private users, insurers, and the state or federal government. All facility revenue obtained from services provided by the Montana state hospital and the Montana mental health nursing care center must be deposited in a special revenue fund and must be applied to the payment of the principal and interest payments due under the loan agreement. ~~Principal and interest payments constitute a statutory appropriation within the meaning of 17-7-502.~~ Whenever the foregoing facility revenue exceeds the amount and terms specified and required to repay the loan and maintain required reserves, the excess must be deposited as provided in 53-1-413. As long as the loan remains outstanding and the state provides services for the mentally ill, the department shall use the Montana state hospital and the Montana mental health nursing care center for those purposes or for other purposes as permitted by the loan agreement and state law, except when foreclosure occurs under the agreement or the mortgage. Notwithstanding the provisions of 77-2-302(1) and upon foreclosure of a mortgage given to secure the loan agreement, there must be paid to the board of land commissioners as a first and prior claim against the mortgaged land an amount equal to the full market value of the land as determined by the board prior to the execution of the mortgage and after appraisal by a qualified land appraiser. The loan agreement may contain other provisions or agreements that the department determines are necessary and that are not inconsistent with the provisions of Title 90, chapter 7.

(3) The obligations of the department under the agreement are special limited obligations payable solely from

the facility revenue of the Montana state hospital and the Montana mental health nursing care center and do not constitute a debt of the state or obligate the state to appropriate or apply any funds or revenue of the state, except the facility revenue as provided in this section."

NEW SECTION. Section 63. Repealer. (1) Sections 10-2-417, 15-31-408, 15-65-122, 15-65-131, 16-1-408, 16-1-410, 39-71-534, 60-11-122, and 77-5-306, MCA, are repealed.

(2) Section 15-1-111, MCA, is repealed.

NEW SECTION. Section 64. Effective dates. (1) [Sections 1 through 25, 27 through 62, and 63(1) and this section] are effective July 1, 1997.

(2) [Sections 26 and 63(2)] are effective July 1, 2008.

-END-

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON APPROPRIATIONS

Call to Order: By CHAIRMAN TOM ZOOK, on February 19, 1997, at 3:00 p.m., in Room 312.

ROLL CALL

Members Present:

Rep. Tom Zook, Chairman (R)
Rep. Edward J. "Ed" Grady, Vice Chairman (Majority) (R)
Rep. Joe Quilici, Vice Chairman (Minority) (D)
Rep. Beverly Barnhart (D)
Rep. Ernest Bergsagel (R)
Rep. John Cobb (R)
Rep. Roger DeBruycker (R)
Rep. Gary Feland (R)
Rep. Don Holland (R)
Rep. John Johnson (D)
Rep. Royal C. Johnson (R)
Rep. Betty Lou Kasten (R)
Rep. Bob Keenan (R)
Rep. Matt McCann (D)
Rep. William T. "Red" Menahan (D)
Rep. Ray Peck (D)
Rep. Steve Vick (R)
Rep. William R. Wiseman (R)

Members Excused: None.

Members Absent: None.

Staff Present: Clayton Schenck, Legislative Fiscal Division
Marjorie Peterson, Committee Secretary

Committee Business Summary:

Hearing: HB 166, HB 378, HB 398
Executive Action: HB 217 DO PASS AS AMENDED

HEARING ON HB 166

Opening Statement by Sponsor:

REP. TOM ZOOK, HD 3, Miles City, opened the hearing on HB 166, An act generally revising and clarifying statutes containing statutory appropriations and dedications of revenue, removing the statutory appropriation of certain funds, providing for the deposit of certain funds in the state general fund rather than the special revenue fund. REP. ZOOK submitted a summary of LFC

De-earmarking Recommendations, Attachment A, and a summary of LFC Statutory Appropriation Recommendations, Attachment B, dated November 22, 1996. EXHIBIT 1.

{Tape: 1; Side: A; Approx. Tape Counter: 0.1.}

Proponents:

Beth Baker, Assistant Chief Deputy Attorney General, Department of Justice, Helena. Ms. Baker submitted information on the Antitrust Revolving Account and a suggested amendment to HB 166. EXHIBITS 2, 3.

{Tape: 1; Side: A; Approx. Tape Counter: 5.7.}

Will Kissinger, Department of Agriculture, Helena.

{Tape: 1; Side: A; Approx. Tape Counter: 9.8.}

Opponents:

Dave Lewis, Director, Office of Budget and Program Planning, Governor's Office, Helena.

{Tape: 1; Side: A; Approx. Tape Counter: 10.6.}

Informational, Proponent, and Opponent:

Peter Blouke, Director, Department of Commerce, Helena.

{Tape: 1; Side: A; Approx. Tape Counter: 11.8.}

Opponents:

Dan Pouliot, Director, Montana Telecommunications Access Program, Department of Public Health and Human Services, Helena. Mr. Pouliot submitted charts of the Revenue and Expenditure Summary Fiscal Years 1990 through 1999. EXHIBIT 4.

{Tape: 1; Side: A; Approx. Tape Counter: 17.3.}

Harry Helton, Gold West Country, Inc., Butte. Mr. Helton submitted a letter signed by the Gold West Country Executive Board in opposition to removing the accommodations tax from HB 166. EXHIBIT 5.

{Tape: 1; Side: A; Approx. Tape Counter: 21.8.}

REP. BOB PAVLOVICH, HD 37, Butte.

{Tape: 1; Side: A; Approx. Tape Counter: 23.7.}

Jerry Driscoll, Montana Building and Construction Trades.

{Tape: 1; Side: A; Approx. Tape Counter: 24.5.}

Betsy Baumgart, Volunteer, Governor Tourism Council, Helena.

{Tape: 1; Side: A; Approx. Tape Counter: 26.3.}

Joe Brand, Veterans of Foreign Wars.

{Tape: 1; Side: A; Approx. Tape Counter: 27.7.}

Riley Johnson, Air Transport Association of America. Mr. Johnson submitted a copy of the airline carriers number of departures and seats per city. EXHIBIT 6.

{Tape: 1; Side: A; Approx. Tape Counter: 32.1.}

Pat O'Connell Anderson, Wolf Creek Bed and Breakfast, and Montana Bed and Breakfast Association. Ms. Anderson submitted her written testimony. EXHIBIT 7.

{Tape: 1; Side: A; Approx. Tape Counter: 35.4.}

Mark Barry, State Compensation Insurance Fund, Department of Administration, Helena. Mr. Barry submitted a copy of the percentage of Old Fund Liability Tax that goes to the general fund and a suggested amendment from the state fund.

EXHIBITS 8, 9.

{Tape: 1; Side: A; Approx. Tape Counter: 36.9.}

Jacqueline Lenmark, American Insurance Association.

{Tape: 1; Side: A; Approx. Tape Counter: 41.1.}

Chris Gallus, Montana Chamber of Commerce.

{Tape: 1; Side: A; Approx. Tape Counter: 42.4.}

Stuart Doggett, Montana Innkeepers Association.

{Tape: 1; Side: A; Approx. Tape Counter: 43.0.}

Ann Bauchman, Department of Natural Resources and Conservation, Helena.

{Tape: 1; Side: B; Approx. Tape Counter: 0.1.}

Keith Colbo, Tourism Coalition. Mr. Colbo submitted a letter from Elmer Frame, Owner of El-Mar Missoula KOA Campground in Missoula, a letter from Jack Clarkson, President, Campground Owners Association of Montana, a letter from Randy Gayner, Glacier Wilderness Guides, and a letter from Edythe McCleary, Executive Director, Montana's Custer Country. EXHIBITS 10, 11, 12, 13.

{Tape: 1; Side: B; Approx. Tape Counter: 1.6.}

Moe Wospka, Kalispell Chamber of Commerce.

{Tape: 1; Side: B; Approx. Tape Counter: 4.9.}

Dave Smith, Executive Director, Bozeman Chamber of Commerce.

{Tape: 1; Side: B; Approx. Tape Counter: 6.1.}

Carl Kochman, Governor's Council on Advertisers, Great Falls.

{Tape: 1; Side: B; Approx. Tape Counter: 7.5.}

Ken Hoovestall, Montana Snowmobile Association, Helena.

{Tape: 1; Side: B; Approx. Tape Counter: 9.6.}

Dick Baumberger, Veterans of Foreign Wars, Helena.

{Tape: 1; Side: B; Approx. Tape Counter: 10.3.}

Mike Hanshew, Department of Public Health and Human Services,
Helena.

{Tape: 1; Side: B; Approx. Tape Counter: 11.4.}

Jim Jacobsen, Montana Veterans Affairs Commission.

{Tape: 1; Side: B; Approx. Tape Counter: 11.9.}

Tony Herbert, Information Services Division, Department of
Administration, Helena.

{Tape: 1; Side: B; Approx. Tape Counter: 13.9.}

Questions From the Committee:

{Tape: 1; Side: B; Approx. Tape Counter: 14.9.}

Closing by Sponsor:

REP. ZOOK closed the hearing on HB 166.

{Tape: 1; Side: B; Approx. Tape Counter: 32.1.}

HEARING ON HB 378

Opening Statement by Sponsor:

REP. BILL RYAN, HD 44, Great Falls, opened the hearing on HB 378,
An act requiring the Department of Revenue to supply employees
who are appraisers with cellular phones, requiring appraisers to
pay cellular phone charges that exceed reimbursement limits,
except for emergency phone use.

{Tape: 1; Side: B; Approx. Tape Counter: 36.1.}

Proponents:

Pete Fontana, President, Federal Property Assessment Division,
Great Falls.

{Tape: 1; Side: B; Approx. Tape Counter: 39.2.}

Terry Minnow, Montana Federation of State Employees.

{Tape: 1; Side: B; Approx. Tape Counter: 43.4.}

Mary Bryson, Director, Department of Revenue, Helena.

{Tape: 1; Side: B; Approx. Tape Counter: 45.1.}

Opponents:

None.

Questions From the Committee:

{Tape: 2; Side: A; Approx. Tape Counter: 2.4.}

Closing by Sponsor:

REP. RYAN closed the hearing on HB 378.

{Tape: 2; Side: A; Approx. Tape Counter: 15.2.}

Motion/Vote: REP. FELAND moved HB 584 Do Pass As Amended.
Motion carried 13 - 5 on a roll call vote, with REPS. BARNHART,
DEBRUYCKER, ROYAL JOHNSON, KASTEN, and PECK voting no.
{Tape: 3; Side: B; Approx. Tape Counter: 23.4.}

EXECUTIVE ACTION ON HB 166

Motion: REP. BERGSAGEL moved HB 166 Do Pass.
{Tape: 4; Side: A; Approx. Tape Counter: 1.5.}

Motion/Vote: REP. GRADY moved amendment HB016604.ar1 Do Pass.
Motion failed 8 - 10 on a roll call vote, with REPS. GRADY,
HOLLAND, JOHN JOHNSON, KEENAN, QUILICI, VICK, WISEMAN, and
CHAIRMAN ZOOK voting yes.
{Tape: 4; Side: A; Approx. Tape Counter: 2.4.}

Motion/Vote: REP. DEBRUYCKER moved amendment HB016604.agp Do
Pass. Motion carried 11 - 7, with REPS. KASTEN, PECK, WISEMAN,
KEENAN, VICK, MENAHAN, and QUILICI voting no.
{Tape: 4; Side: A; Approx. Tape Counter: 8.9.}

Motion/Vote: REP. ZOOK moved amendment HB016605.a05 Do Pass.
Motion carried 12 - 6 on a roll call vote, with REPS. KASTEN,
KEENAN, MCCANN, PECK, VICK, and WISEMAN voting no.
{Tape: 4; Side: A; Approx. Tape Counter: 11.2.}

Motion/Vote: REP. DEBRUYCKER moved amendment HB016602.ar1 Do
Pass. Motion carried 15 - 3, with REPS. BERGSAGEL, KEENAN, and
VICK voting no.
{Tape: 4; Side: A; Approx. Tape Counter: 15.8.}

Motion/Vote: REP. JOHN JOHNSON moved amendment HB016602.agp Do
Pass. Motion carried 12 - 6 on a roll call vote, with REPS.
BERGSAGEL, COBB, KASTEN, KEENAN, MCCANN, and VICK voting no.
{Tape: 4; Side: A; Approx. Tape Counter: 24.1.}

Motion/Vote: REP. GRADY moved a voice amendment from Beth Baker,
Department of Justice. Motion failed 9 - 9 on a roll call vote,
with REPS. BERGSAGEL, DEBRUYCKER, FELAND, KASTEN, KEENAN, MCCANN,
PECK, VICK, and WISEMAN voting no.
{Tape: 4; Side: B; Approx. Tape Counter: 1.6.}

Motion/Vote: REP. ZOOK moved amendment HB016601.ar1 Do Pass.
Motion carried 16 - 2, with REPS. KEENAN and VICK voting no.
{Tape: 4; Side: B; Approx. Tape Counter: 4.7.}

Motion/Vote: REP. ZOOK moved amendment HB016601.agp Do Pass.
Motion carried 16 - 2, with REPS. DEBRUYCKER and BERGSAGEL voting
no.
{Tape: 4; Side: B; Approx. Tape Counter: 9.9.}

Motion/Vote: REP. ZOOK moved amendment HB016603.agp Do Pass.
Motion carried 13 - 5, with REPS. DEBRUYCKER, KEENAN, VICK,
BERGSAGEL, and KASTEN voting no.
{Tape: 4; Side: B; Approx. Tape Counter: 15.4.}

Motion/Vote: REP. MCCANN moved HB 166 Do Pass As Amended.
Motion carried 14 - 4 on a roll call vote, with REPS. GRADY,
KASTEN, KEENAN, and VICK voting no.
{Tape: 4; Side: B; Approx. Tape Counter: 31.0.}

EXECUTIVE ACTION ON HB 281

Motion/Vote: REP. QUILICI moved to reconsider HB 281 which had
been Tabled on March 11. Motion to reconsider passed 12 - 6,
with REPS. KASTEN, FELAND, BERGSAGEL, KEENAN, VICK, and WISEMAN
voting no.
{Tape: 5; Side: A; Approx. Tape Counter: 0.1.}

Motion: REP. QUILICI moved HB 281 Do Pass As Amended. This
motion was set aside until the next day for further information.
{Tape: 5; Side: A; Approx. Tape Counter: 10.0.}

EXECUTIVE ACTION ON HB 177

Motion: REP. COBB moved HB 177 Do Pass.
{Tape: 5; Side: A; Approx. Tape Counter: 12.0.}

Motion/Vote: REP. COBB moved Grinde amendment HB017701.agp Do
Pass. Motion carried unanimously.
{Tape: 5; Side: A; Approx. Tape Counter: 13.2.}

Motion/Vote: REP. COBB moved HB 177 Do Pass As Amended. Motion
carried unanimously.
{Tape: 5; Side: A; Approx. Tape Counter: 15.5.}

EXECUTIVE ACTION ON HB 166

Motion/Vote: REP. ROYAL JOHNSON moved to reconsider HB 166.
Motion carried 17 - 1, with REP. DEBRUYCKER voting no.
{Tape: 5; Side: A; Approx. Tape Counter: 16.7.}

Motion/Vote: REP. ROYAL JOHNSON moved State Fund amendment Do
Pass. Motion carried unanimously.
{Tape: 5; Side: A; Approx. Tape Counter: 18.6.}

Motion: REP. ROYAL JOHNSON moved HB 166 Do Pass As Amended.
{Tape: 5; Side: A; Approx. Tape Counter: 19.1.}

Motion/Vote: REP. BERGSAGEL moved to reconsider the bed tax
amendment. Motion carried 12 - 6, with REPS. KASTEN, BARNHART,
FELAND, COBB, MENAHAN, and PECK voting no.

{Tape: 5; Side: A; Approx. Tape Counter: 19.5.}

Motion/Vote: REP. BERGSAGEL moved Grady amendment. Motion carried 12 - 6, with REPS. DEBRUYCKER, COBB, BARNHART, KASTEN, PECK, and MCCANN voting no.

{Tape: 5; Side: A; Approx. Tape Counter: 21.4.}

Motion/Vote: REP. BERGSAGEL moved HB 166 Do Pass As Amended. Motion carried 13 - 5, with REPS. KASTEN, DEBRUYCKER, BARNHART, PECK, and MCCANN voting no.

{Tape: 5; Side: A; Approx. Tape Counter: 22.6.}

EXECUTIVE ACTION ON HB 169

Motion: REP. BERGSAGEL moved HB 169 Do Pass.

{Tape: 5; Side: A; Approx. Tape Counter: 23.3.}

Motion/Vote: REP. BERGSAGEL moved amendment HB016901.alm Do Pass. Motion carried unanimously.

{Tape: 5; Side: A; Approx. Tape Counter: 24.2.}

Motion/Vote: REP. BERGSAGEL moved HB 169 Do Pass As Amended. Motion carried unanimously.

{Tape: 5; Side: A; Approx. Tape Counter: 29.3.}



HOUSE STANDING COMMITTEE REPORT

March 25, 1997

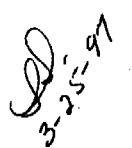
Page 1 of 9

Mr. Speaker: We, the committee on Appropriations report that House Bill 166 (first reading copy -- white) do pass as amended.

Signed: 
Tom Zook, Chair

And, that such amendments read:

1. Title, line 9.
Following: "2-17-105,"
Insert: "7-15-4286, 7-15-4292,"
Strike: "10-2-416,"
Insert: "10-3-312,"
Following: "15-30-153,"
Insert: "15-35-108,"
2. Title, line 10.
Strike: "15-65-121,"
3. Title, line 12.
Following: line 11
Insert: "20-8-111, 20-9-360,"
Following: "32-1-537,"
Insert: "37-43-204,"
4. Title, line 15.
Following: line 14
Insert: "77-1-505,"
5. Title, line 16.
Strike: "15-65-122, 15-65-131,"
6. Title, line 17.
Following: "DATES"
Insert: "AND A TERMINATION DATE"


3-25-97

Committee Vote:
Yes 13, No 5.

651325SC.Hgd

7. Page 4, line 28 through page 5, line 5.

Strike: section 3 in its entirety

Insert: "Section 3. Section 7-15-4286, MCA, is amended to read:

"7-15-4286. **Procedure to determine and disburse tax increment.** (1) Mill rates of taxing bodies for taxes levied after the effective date of the tax increment provision ~~shall~~ must be calculated on the basis of the sum of the taxable value, as shown by the last equalized assessment roll, of all taxable property located outside the urban renewal area or industrial district and the base taxable value of all taxable property located within the urban renewal area or industrial district. The mill rate ~~so~~ determined ~~shall~~ must be levied against the sum of the actual taxable value of all taxable property located within as well as outside the urban renewal area or industrial district.

(2) (a) The tax increment, if any, received in each year from the levy of the combined mill rates of all the affected taxing bodies against the incremental taxable value within the urban renewal area or industrial district, except for the university system mills levied and assessed against property ~~as defined in 7-15-4292(6)(a)~~, ~~shall~~ must be paid into a special fund held by the treasurer of the municipality and used as provided in 7-15-4282 through 7-15-4292.

(b) The balance of the taxes collected in each year ~~shall~~ must be paid to each of the taxing bodies as otherwise provided by law."

Section 4. Section 7-15-4292, MCA, is amended to read:

"7-15-4292. **Termination of tax increment financing -- exception -- ~~reduction in tax increment distribution.~~** (1) The tax increment provision ~~shall terminate~~ terminates upon the later of:

(a) the 15th year following its adoption or, if the tax increment provision was adopted prior to January 1, 1980, upon the 17th year following adoption; or

(b) the payment or provision for payment in full or discharge of all bonds for which the tax increment has been pledged and the interest ~~thereon~~ on the bonds.

(2) Any amounts remaining in the special fund or any reserve fund after termination of the tax increment provision ~~shall~~ must be distributed among the various taxing bodies in proportion to their property tax ~~revenues~~ revenue from the district.

(3) After termination of the tax increment provision, all taxes ~~shall~~ must be levied upon the actual taxable value of the taxable property in the urban renewal area or the industrial district and ~~shall~~ must be paid into the funds of the respective taxing bodies.

(4) Bonds secured in whole or in part by a tax increment provision may not be issued after the 15th anniversary of tax

increment provisions adopted after January 1, 1980, and the 17th anniversary of tax increment provisions adopted prior to January 1, 1980. However, if bonds secured by a tax increment provision are outstanding on the applicable anniversary, additional bonds secured by the tax increment provision may be issued if the final maturity date of the bonds is not later than the final maturity date of any bonds then outstanding and secured by the tax increment provision.

~~(5) (a) If a municipality issues bonds secured in whole or in part by a tax increment provision after the 10th year following a tax increment provision adopted after January 1, 1980, or after the 12th year following a tax increment provision adopted before January 1, 1980, it is not entitled to the full distribution provided in 20-9-360(2).~~

~~(b) The state treasurer shall reduce the distribution to the municipality in each fiscal year after the fiscal year in which the bonds referred to in subsection (5) (a) are issued by an amount equal to the increased taxable value of the project property multiplied by the total number of mills levied and assessed for school district purposes against the property in the previous calendar year. The department of revenue shall certify to the state treasurer by September 1 of each year the increased taxable value of the project property.~~

~~(c) If the municipality issues more than one bond series after January 1, 1991, the distribution to the municipality as provided in 20-9-360(2) is reduced, as determined in subsection (5) (b), by the sum of the amounts of each bond issue.~~

~~(6) For the purposes of subsection (5):~~

~~(a) "project property" is the value of property within an urban renewal area affected by an urban renewal project to be financed in whole or in part from the proceeds of the bonds issued pursuant to subsection (5) (a), certified by the municipality to the department of revenue at the time the bonds are issued and identified by a tax identification number. Property is affected by an urban renewal project if the property:~~

~~(i) is to be acquired or improved as part of the urban renewal project;~~

~~(ii) is located on property that is to be acquired or improved as part of the urban renewal project;~~

~~(iii) is contiguous to, or located on property contiguous to, property referred to in subsection (6) (a) (i) or (6) (a) (ii), including adjacent property separated by a road, stream, street, or railroad; or~~

~~(iv) is included in an agreement between a person and the municipality in connection with the urban renewal project for the issuance of the bonds and if under the agreement, the person undertakes to develop or redevelop the property.~~

~~(b) "increased taxable value" means the difference between~~

~~the taxable value of the project property for the current fiscal year and the taxable value of the project property for the fiscal year in which the bonds were issued."~~

"Section 5. Section 10-3-312, MCA, is amended to read:

"10-3-312. **Maximum expenditure by governor -- appropriation.** (1) (a) Whenever an emergency or disaster is declared by the governor, there is statutorily appropriated to the office of the governor, as provided in 17-7-502, and the governor is authorized to expend from the general fund, an amount not to exceed ~~\$2~~ \$4 million in any biennium, minus any amount appropriated pursuant to 10-3-310 in the same biennium.

(b) Whenever an emergency or disaster due to fire is declared by the governor, there is statutorily appropriated to the office of the governor, as provided in 17-7-502, and the governor is authorized to expend from the general fund, an amount not to exceed \$10 million in any biennium. The amount appropriated in this subsection (b) may be combined with the amount appropriated in subsection (1)(a) for an emergency or disaster due to fire.

(2) In the event of the recovery of money expended under this section, the spending authority must be reinstated to a level reflecting the recovery.

(3) If a disaster is declared by the president of the United States, there is statutorily appropriated to the office of the governor, as provided in 17-7-502, and the governor is authorized to expend from the general fund, an amount not to exceed \$500,000 during the biennium to meet the state's share of the individual and family grant programs as provided in 42 U.S.C. 5178.""

Renumber: subsequent sections

8. Page 8, line 20.

Insert: "Section 10. Section 15-35-108, MCA, is amended to read:

"15-35-108. **Disposal of severance taxes.** Severance taxes collected under this chapter must, in accordance with the provisions of 15-1-501, be allocated as follows:

(1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article IX, section 5, of the Montana constitution. The trust fund money must be deposited in the fund established under 17-6-203(6) and invested by the board of investments as provided by law.

(2) Twelve percent of coal severance tax collections is allocated to the long-range building program account established in 17-7-205.

(3) The amount of 8.36% must be credited to an account in the state special revenue fund to be allocated by the legislature for local impacts, county land planning, provision of basic

library services for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking, conservation districts, and the Montana Growth Through Agriculture Act. Expenditures of the allocation may be made only from this account. Money may not be transferred from this account to another account other than the general fund. Any cash balance that is unspent at the end of each fiscal year must be deposited in the general fund.

(4) The amount of 1.27% must be allocated to a nonexpendable trust fund for the purpose of parks acquisition or management. Income from this trust fund must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas described in 23-1-102.

(5) The amount of 0.95% must be allocated to the debt service fund type to the credit of the renewable resource loan debt service fund.

(6) The amount of 0.63% must be allocated to a nonexpendable trust fund for the purpose of protection of works of art in the state capitol and for other cultural and aesthetic projects. Income from this trust fund must be appropriated for protection of works of art in the state capitol and other cultural and aesthetic projects.

(7) All other revenue from severance taxes collected under the provisions of this chapter must be credited to the general fund of the state.""

Renumber: subsequent sections

9. Page 13, line 14 through page 14, line 21.

Strike: Section 10 in its entirety

Renumber: subsequent sections

10. Page 18, line 23.

Following: "~~homes-~~"

Insert: "(1) The amount of 11.11% of the cigarette tax collected under the provisions of 16-11-111 on each package of cigarettes must be deposited in the state special revenue fund to the credit of the department of public health and human services for the operation and maintenance of state veterans' nursing homes.

(2) "

Renumber: subsequent subsections

11. Page 18, line 24.

Following: "~~remaining~~"

Insert: "remaining"

12. Page 18, line 26.
Strike: "(1)"
Insert: "(a)"
Renumber: subsequent subsection

13. Page 25, line 27.
Following: "~~15-65-121,~~"
Insert: "15-65-121;"

14. Page 25, line 30.
Strike: "20-8-111;"

15. Page 26, line 4.
Following: line 3
Insert: "75-5-1108; 75-6-214;"
Following: "~~76-12-123,~~"
Insert: "77-1-505;"

16. Page 28, line 7.
Insert: "Section 31. Section 20-8-111, MCA, is amended to read:
"20-8-111. **Duty of board of public education as to property of school.** The board of public education ~~has a statutory appropriation, as provided in 17-7-502,~~ and shall, either directly or through a contract with a nonprofit corporation, receive, hold, manage, use, and dispose of real and personal property ~~made over transferred to such the~~ board or to the state of Montana by purchase, gift, devise, or bequest, or otherwise acquired and the proceeds, interest, and income ~~thereof of the property~~ for the use and benefit of said the school for the deaf and blind. All donations, gifts, devises, or grants ~~made before, on, or after October 1, 1983, to the school shall~~ vest in the board or its designee, as trustee for the state of Montana, for the use and benefit of the school and its students."

Section 32. Section 20-9-360, MCA, is amended to read:
"20-9-360. **State equalization aid levy.** ~~(1)~~ There is a levy of 40 mills imposed by the county commissioners of each county on all taxable property within the state, except property for which a tax or fee is required under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521, 61-3-527, 61-3-537, and 67-3-204. ~~Except as provided in subsection (2),~~ proceeds of the levy must be remitted to the state treasurer and must be deposited to the credit of the state general fund for state equalization aid to the public schools of Montana.

~~(2) For the benefit of each municipality that created an urban renewal area and adopted a tax increment financing provision for the urban renewal area prior to July 1, 1990, the state treasurer shall distribute each fiscal year from the state~~

~~equalization aid levy to the municipality the amount, if any, equal to the product of the incremental taxable value of the urban renewal area times the reduced school levy for the area, each calculated for the fiscal year. The reduced school levy for a fiscal year is the difference between the aggregate amount of all property tax levies for school purposes in the urban renewal area, expressed in mills, in the fiscal year ended June 30, 1989, and the aggregate amount of all property tax levies for school purposes in the area or the district, expressed in mills, in the fiscal year, including the state equalization aid levy. The state treasurer shall distribute the amounts to municipalities in two equal installments on December 31 and June 30 of the fiscal year."~~

Renumber: subsequent sections

17. Page 29, line 4.

Insert: "Section 35. Section 37-43-204, MCA, is amended to read:

"37-43-204. Earmarked money for board expenses -- expenditure of funds from bonds. (1) All money collected under this chapter must be deposited in the state special revenue fund and may be used only for the purpose of paying expenses of the board. Except for funds received from bonds in subsection (2), the money must be appropriated by the legislature before it may be expended by the board. Income and interest from investment of the money in the state special revenue fund that are collected under this chapter must be credited to the board.

(2) The board may accept and expend all funds received from bonds required by 37-43-306. The funds must be used to remedy defects in water wells, to compensate for damages caused by violations of this chapter or the rules of the board, or to pay any administrative costs incurred by the board under 37-43-309, 37-43-310, and 37-43-313. These funds, other than those to pay any administrative costs, are statutorily appropriated as provided in 17-7-502."

Renumber: subsequent sections

18. Page 32, line 23.

Strike: "1.20%"

Insert: "the amount appropriated to the department of revenue for the collection of the old fund liability tax"

19. Page 33, line 29.

Strike: "1.20%"

Insert: "the amount appropriated to the department of revenue for the collection of the old fund liability tax"

20. Page 46, line 7.

Following: "funds"

Insert: "-- statutory appropriation"

21. Page 46, line 8.

Strike: "must be used"

Insert: "is statutorily appropriated, as provided in 17-7-502,"

22. Page 46, line 15.

Following: "funds"

Insert: "-- statutory appropriation"

23. Page 46, line 16.

Strike: "must be used"

Insert: "is statutorily appropriated, as provided in 17-7-502,"

24. Page 47, line 10.

Insert: "Section 60. Section 77-1-505, MCA, is amended to read:

"77-1-505. Warrant for payments to counties. The department of administration shall, before December 1, approve and authorize the issuance of a warrant on the general fund of the state made payable to the county treasurer of the counties shown on the claim for the payment of the state land equalization payment. The payments are statutorily appropriated as provided in 17-7-502."

Renumber: subsequent sections

25. Page 53, line 10.

Strike: "15-65-122, 15-65-131,"

26. Page 53.

Following: line 12

Insert: "NEW SECTION. Section 70. Coordination. If [this act] is passed and approved in a form de-earmarking a percentage of the 9-1-1 emergency telecommunications tax to the general fund and if House Bill No. 210 is passed and approved increasing the 9-1-1 emergency telecommunication tax to 55 cents, then the percentage de-earmarked to the general fund in [this act] is 3.53%."

Renumber subsequent section

27. Page 53, line 14.

Following: "dates"

Insert: "-- termination"

Following: the first "through"

Insert: "3, 5 through"

Strike: "25"

Insert: "27"
Strike: "27"
Insert: "29"
Strike: "62"
Insert: "68"
Strike: "and 63(1)"
Insert: "69(1), and 70"

28. Page 53, line 16.

Strike: "26"
Insert: "28"
Strike: "63(2)"
Insert: "69(2)"

29. Page 53, line 17.

Insert: "(3) [Section 4] is effective on passage an approval and
terminates July 1, 1997."

-END-

HOUSE OF REPRESENTATIVES
55TH LEGISLATIVE SESSION - 1997

ROLL CALL VOTE
APPROPRIATIONS COMMITTEE

DATE 3/24/97 BILL NO. HB 166

MOTION Rep. John Johnson moved amendment
HB 0166 02. a.g.p. Dr Pass. motion carried
12-6.

NAME	AYE	NO
Rep. Ed Grady, VICE CHAIRMAN, MAJORITY	✓	
Rep. Beverly Barnhart	✓	
Rep. Ernest Bergsagel		✓
Rep. John Cobb		✓
Rep. Roger DeBruycker	✓	
Rep. Gary Feland	✓	
Rep. Don Holland	✓	
Rep. John Johnson	✓	
Rep. Royal Johnson	✓	
Rep. Betty Lou Kasten		✓
Rep. Bob Keenan		✓
Rep. Matt McCann		✓
Rep. Red Menahan	✓	
Rep. Ray Peck	✓	
Rep. Joe Quilici, VICE CHAIRMAN, MINORITY	✓	
Rep. Steve Vick		✓
Rep. Bill Wiseman	✓	
Rep. Tom Zook, CHAIRMAN	✓	

HOUSE OF REPRESENTATIVES
55TH LEGISLATIVE SESSION - 1997

ROLL CALL VOTE
APPROPRIATIONS COMMITTEE

DATE 3/24/97 BILL NO. HB 166

MOTION Rep. Grady moved a voice amendment from
Beth Baker, Dept. of Justice Do Pass. Motion
failed on a tie vote, 9-9.

NAME	AYE	NO
Rep. Ed Grady, VICE CHAIRMAN, MAJORITY	✓	
Rep. Beverly Barnhart	✓	
Rep. Ernest Bergsagel		✓
Rep. John Cobb	✓	
Rep. Roger DeBruycker		✓
Rep. Gary Feland		✓
Rep. Don Holland	✓	
Rep. John Johnson	✓	
Rep. Royal Johnson	✓	
Rep. Betty Lou Kasten		✓
Rep. Bob Keenan		✓
Rep. Matt McCann		✓
Rep. Red Menahan	✓	
Rep. Ray Peck		✓
Rep. Joe Quilici, VICE CHAIRMAN, MINORITY	✓	
Rep. Steve Vick		✓
Rep. Bill Wiseman		✓
Rep. Tom Zook, CHAIRMAN	✓	

HOUSE OF REPRESENTATIVES
55TH LEGISLATIVE SESSION - 1997

ROLL CALL VOTE
APPROPRIATIONS COMMITTEE

DATE 3/24/97 BILL NO. HB 166

MOTION Rep. Grady moved amendment HB 016604. and
Dr Pass. motion failed 8-10.

NAME	AYE	NO
Rep. Ed Grady, VICE CHAIRMAN, MAJORITY	✓	
Rep. Beverly Barnhart		✓
Rep. Ernest Bergsagel		✓
Rep. John Cobb		✓
Rep. Roger DeBruycker		✓
Rep. Gary Feland		✓
Rep. Don Holland	✓	
Rep. John Johnson	✓	
Rep. Royal Johnson		✓
Rep. Betty Lou Kasten		✓
Rep. Bob Keenan	✓	
Rep. Matt McCann		✓
Rep. Red Menahan		✓
Rep. Ray Peck		✓
Rep. Joe Quilici, VICE CHAIRMAN, MINORITY	✓	
Rep. Steve Vick	✓	
Rep. Bill Wiseman	✓	
Rep. Tom Zook, CHAIRMAN	✓	

HOUSE OF REPRESENTATIVES
55TH LEGISLATIVE SESSION - 1997

ROLL CALL VOTE
APPROPRIATIONS COMMITTEE

DATE 3/24/97 BILL NO. HB 166

MOTION Rep. McCann moved HB 166 Do Pass
As Amended. motion carried 14-4.

NAME	AYE	NO
Rep. Ed Grady, VICE CHAIRMAN, MAJORITY		✓
Rep. Beverly Barnhart	✓	
Rep. Ernest Bergsagel	✓	
Rep. John Cobb	✓	
Rep. Roger DeBruycker	✓	
Rep. Gary Feland	✓	
Rep. Don Holland	✓	
Rep. John Johnson	✓	
Rep. Royal Johnson	✓	
Rep. Betty Lou Kasten		✓
Rep. Bob Keenan		✓
Rep. Matt McCann	✓	
Rep. Red Menahan	✓	
Rep. Ray Peck	✓	
Rep. Joe Quilici, VICE CHAIRMAN, MINORITY	✓	
Rep. Steve Vick		✓
Rep. Bill Wiseman	✓	
Rep. Tom Zook, CHAIRMAN	✓	

HOUSE OF REPRESENTATIVES
55TH LEGISLATIVE SESSION - 1997

ROLL CALL VOTE
APPROPRIATIONS COMMITTEE

DATE 3/24/97 BILL NO. HB 166

MOTION Rep. Zook moved amendment HB 0166 04.4 g.p
Do Pass. motion carried 12-6.

NAME	AYE	NO
Rep. Ed Grady, VICE CHAIRMAN, MAJORITY	✓	
Rep. Beverly Barnhart	✓	
Rep. Ernest Bergsagel	✓	
Rep. John Cobb	✓	
Rep. Roger DeBruycker	✓	
Rep. Gary Feland	✓	
Rep. Don Holland	✓	
Rep. John Johnson	✓	
Rep. Royal Johnson	✓	
Rep. Betty Lou Kasten		✓
Rep. Bob Keenan		✓
Rep. Matt McCann		✓
Rep. Red Menahan	✓	
Rep. Ray Peck		✓
Rep. Joe Quilici, VICE CHAIRMAN, MINORITY	✓	
Rep. Steve Vick		✓
Rep. Bill Wiseman		✓
Rep. Tom Zook, CHAIRMAN	✓	

Closing by Sponsor:

REP. PAVLOVICH This came out of our interim committee from a study that took place over the last 3 years.

{Tape: 1; Side: A; Approx. Time Count: 7:24; Comments: None.}

HEARING ON HB 166

Sponsor: REP. TOM ZOOK, HD 3, MILES CITY

Proponents: Beth Baker, Department of Justice
Peter Blouke, Department of Commerce
Dan Pouliot, Montana Telecommunications Access Program

Opponents: None

Opening Statement by Sponsor:

REP. TOM ZOOK, HD 3, MILES CITY This is the de-earmarking bill that comes to you from the Finance Committee. It is the result of a Senate bill enacted by the 1993 legislature which required the Finance Committee to review all dedicated revenue provisions. The idea was to insure they are based on sound principles of revenue dedication, that they reflect legislative priorities for state spending and are terminated when no longer needed. In House Appropriations we took out the accommodations tax that was in the original bill as it is an issue that should be dealt with on its own. We de-earmarked 21 statutory appropriations and combined 5 into 3 appropriations.

Proponents' Testimony:

Beth Baker, Department of Justice (DOJ) There are 3 sections in this bill that affect DOJ, section 1, 54 & 55. We are proposing an amendment to remove section 1 from the bill. I have discussed this with REP. ZOOK and it is my understanding that he has no objection to the proposed amendment. (EXHIBIT #10) handed out and explained. The way the bill is currently drafted all our recoveries would have to go to the General Fund which means we would not be able to participate in these antitrust cases because the court order settlement requires the money go back to the consumers. This is not a steady source of revenue, we only get money if we participate in the cases. We urge your adoption of the proposed amendment. (EXHIBIT #11)

Peter Blouke, Department of Commerce (DOC) I rise in support of the DOJ amendment. DOC runs a consumers affairs office which would be under the same constraints when prosecuting consumer fraud, the money would have to go to the General Fund instead of being returned to the consumers.

Dan Pouliot, Montana Telecommunications Access Program Testimony handed out. (EXHIBIT #12)

Opponents' Testimony: None

{Tape: 1; Side: A; Approx. Time Count: 7:37; Comments: None.}

Questions From Committee Members and Responses:

SEN. LARRY BAER Do you have any problem with the amendments?

REP. ZOOK I'm not going to reject any amendments this committee approves.

SEN. BECK Did the House try any amendments on HB 166? Ben Havedahl An amendment was offered on the House floor and was defeated by 4 votes.

Closing by Sponsor:

REP. ZOOK closes.

{Tape: 1; Side: A; Approx. Time Count: 7:40; Comments: None.}

HEARING ON HB 281

Sponsor: REP. BILL RYAN, HD 44, GREAT FALLS

Proponents: Doris Romanisko, Montana Operating Engineers and Associated General Contractors Joint Apprenticeship and Training Trust
Rhonda Fiscus, Montana Contractors Joint Apprenticeship Training Center
LuAnn Jones, Operating Engineers Apprenticeship
Jerry Driscoll, Montana State Building and Construction Trades
Daryl Holzer, Montana AFLCIO

Opponents: Peter Blouke, Department of Commerce
Don Chance, Montana Building Industry Association

Opening Statement by Sponsor:

REP. BILL RYAN, HD 44, GREAT FALLS HB 281 is a one-time appropriation of \$140,000 in FY98-99 for apprenticeship training in Montana. This is a good program that is a vital educational tool that has served the state well.

Proponents' Testimony:

Doris Romanisko, Montana Operating Engineers and Associated General Contractors Joint Apprenticeship and Training Trust Testimony handed in. (EXHIBIT #13)

Discussion: SEN. TOEWS You have a major problem with this bill, whether you believe it or not. You are putting the regents in the position of sorting through this litany of things on page 3. There is no money in the system for them to give these waivers, we have cut the waivers and you put them in the position of choosing who will get them. They are the wrong people to be sorting through this, this is our job. Get the funding in the military and out of education. Education should not be doing welfare things for the rest of the state, let education stand on its own merit. We keep putting the burden on education and they don't have the money to carry the load.

SEN. MOHL I reject this bill. The service is volunteer, when are we going to stop giving them stuff. We served our time in the military. This is another deal for people to get a free education by joining the national guard. I think it is wrong.

SEN. LYNCH I'm in favor of the bill. The Board of Regents has plenty of staff and they don't have to do these waivers.

Vote: THE MOTION THAT HB 17 BE CONCURRED IN FAILED 7-10 ON ROLL CALL VOTE.

Motion/Vote: SEN. WATERMAN MOVES THAT HB 17 BE TABLED. THE MOTION FAILED 8-9 ON ROLL CALL VOTE.

Motion/Vote: SEN. LYNCH MOVES THAT HB 17 BE CONCURRED IN. THE MOTION FAILED 8-9 ON ROLL CALL VOTE.

{Tape: 3; Side: A; Approx. Time Count: 10:36; Comments: None.}

EXECUTIVE ACTION ON HB 166

Motion: SEN. BECK MOVES TO AMEND HB 166 WITH (EXHIBIT #40).

Discussion: CHAIRMAN SWYSGOOD This amendment allows the telecommunications access program to stay in place. I think they make a strong argument for this.

Vote: THE MOTION TO AMEND HB 166 WITH (EXHIBIT #40) CARRIED UNANIMOUSLY.

Motion: SEN. JERGESON MOVES TO AMEND HB 166 WITH (EXHIBIT #41).

Discussion: SEN. JERGESON This amendment allows DOJ to disperse the money as the court orders when they participate in antitrust actions.

Taryn Purdy, LFD This pertains to times when the judge allocates the funds to a specific place. There are other times when the judgement may not do so, in those instances all the money from that judgement would accrue in this account. One alternative to avoid that situation is to amend the language to say it will go to the General Fund unless precluded by the judgement.

SEN. WATERMAN If we pass this amendment as it is and all the funds flow into this account, will they then flow to the General Fund since they are not appropriated? **Ms. Purdy** No, they would remain in the account.

SEN. TAYLOR I am in favor of this amendment, **REP. ZOOK** has no objections to it. We don't have an antitrust division in the State of Montana, this allows us to work with other states on these antitrust cases.

Vote: THE MOTION TO AMEND HB 166 WITH (EXHIBIT #41) CARRIED UNANIMOUSLY.

Motion: SEN. WATERMAN MOVES HB 166 BE CONCURRED IN AS AMENDED.

{Tape: 3; Side: A; Approx. Time Count: 10:43; Comments: None.}

Amendment: Amendment #hb016612.a05. (EXHIBIT #42)

Motion: SEN. LYNCH MOVES TO AMEND HB 166 WITH AMENDMENT #HB016612.A05.

Discussion: CHAIRMAN SWYSGOOD This is a technical amendment. **Ms. Purdy** explains amendment.

Vote: THE MOTION TO AMEND HB 166 WITH AMENDMENT #HB016612.A05 CARRIED UNANIMOUSLY.

Amendment: Amendment #hb016610.a05. (EXHIBIT #43)

Motion: SEN. BECK MOVES TO AMEND HB 166 WITH AMENDMENT #HB016610.A05. THE MOTION CARRIED UNANIMOUSLY.

Amendment: Amendment #hb016611.a05. (EXHIBIT #44)

Motion: SEN. BECK MOVES TO AMEND HB 166 WITH AMENDMENT #HB016611.A05.

Discussion: CHAIRMAN SWYSGOOD This retains the 9-1-1 distribution as a statutory appropriation.

SEN. TOEWS Aren't they working on something in tax on this? **CHAIRMAN SWYSGOOD** That doesn't have anything to do with this amendment.

Vote: THE MOTION TO AMEND HB 166 WITH AMENDMENT #HB016611.A05 CARRIED WITH SEN. TOEWS VOTING NO.

Vote: THE MOTION THAT HB 166 BE CONCURRED IN AS AMENDED CARRIED UNANIMOUSLY. SEN. GROSFIELD will carry HB 166.

DEPARTMENT OF JUSTICE
Amendment to House Bill 166
Restore Attorney General's Antitrust Revolving Account

The Attorney General occasionally participates in multi-state antitrust actions involving price fixing or other restraints of trade that harm Montana consumers. Many states have full-time staffed antitrust units to prepare and litigate these cases. Montana does not, but the Department of Justice takes advantage of the work done by other states and joins these cases to the extent possible with existing staff.

These cases frequently produce small recoveries of damages or other consumer benefits through negotiated settlements. The settlements usually include a minimal amount (in the neighborhood of \$2,000) to cover the state's costs and attorney time. The cases often require participation in the costs of litigation, usually at a nominal amount when compared to the lead states' investigative costs. Prior to 1995, Montana's portion of the amounts recovered in these cases was deposited in the general fund with no provision to offset related costs incurred by the Department.

The 1995 Legislature approved \$15,000 per year in spending authority from antitrust recoveries for participation in additional multistate antitrust litigation. House Bill 2, as approved by both the House and Senate, retains this \$15,000 in spending authority for that purpose.

In its current form, House Bill 166 would prohibit the State of Montana from participating in many of these multistate antitrust settlements, because it requires deposit of recoveries in the general fund. The court-ordered settlements often provide for distribution of funds in other ways, and Montana could not benefit from those settlements if it cannot comply with the terms of the settlement.

Unlike other provisions of HB 166, the Attorney General's antitrust account does not represent a steady source of revenue. Funds are only available to the extent antitrust cases are filed, settlements are reached, and Montana joins in the settlements. Montana may be precluded from joining if HB 166 passes in its current form. Proceeds of antitrust recoveries are used to participate in similar cases and obtain benefits for Montana consumers.

Cases in which the Attorney General has participated during the last biennium include:

Reebok International Ltd.: All 50 states joined in a settlement with the shoe manufacturer to resolve the states' claims that Reebok set minimum prices at which retailers could sell its shoes. Montana received approximately \$25,000, plus \$2,800 to cover costs and staff

time. The settlement required that the money be used to improve, refurbish or provide athletic facilities, equipment or services. Montana's share was distributed to 13 recreational projects across the state, selected by a committee of volunteers and approved by the Attorney General and by the federal court. The money was distributed in the following manner:

\$2,500 each to:

- **Bozeman Baseball, Inc.**, to assist in the construction of a facility to be used for youth baseball, soccer, softball and football programs.

- **Recreational Trails, Inc.**, of Great Falls, to staff trail safety tables along the River's Edge Trail.

- **Wolf Point Athletic Association**, to assist with construction of an all-weather track that will replace a dirt track that cannot be used much of the year.

\$1,825 each to:

- **Bigfork Development Co.**, to assist in the creation of the Swan River Nature Trail along an old county road that parallels the Swan River near Bigfork.

- **Billings Central High School**, to buy and install new basketball equipment.

- **Billings McKinley PTA Playground Committee**, to assist in the purchase and installation of playground equipment at McKinley Elementary School.

- **Friends of Peets' Hill Trail in Bozeman**, to improve the surface of the Peets' Hill recreational trail.

- **Butte Family YMCA**, to buy sports equipment and make facility improvements.

- **Montana Special Olympics**, to buy equipment for its "Unified Sports" program for athletes with and without mental disabilities to form sports teams for training and competition. The money was distributed to the communities of **Livingston, Kalispell, Nashua, Great Falls and Missoula.**

- **Deer Lodge Youth Soccer Organization**, to purchase equipment for its expanding program.

- **Lewistown Track and Tennis Steering Committee**, to assist in construction of an all-weather track and tennis facility at Fergus County High School.

\$2,400 to **Beartooth Front Community Forum of Red Lodge** to complete a volleyball court in a newly developed park and to purchase sports equipment. The group promotes community projects and has established a youth center that is affiliated with the Boys and Girls Clubs of America.

And \$500 to the **Friendship Center of Helena** to buy and install a swing set to serve the children of the families it serves in its homeless and battered women's shelters.

American Cyanamid Litigation: In another 50-state settlement just approved by a federal court in February 1997, Montana received \$10,000 from agricultural chemical manufacturer American Cyanamid as part of an aggregate settlement worth \$7.3 million. The states alleged that American Cyanamid violated antitrust laws by using dealer rebate programs to set minimum retail prices for crop protection chemicals. Montana's share was given to the state Agriculture Department for deposit in the noxious weed trust fund.

Airline Antitrust Litigation: A multi-state settlement in a challenge to airline pricing practices allowed state and local government agencies to receive 10% discounts on travel purchases for approximately 18 months, for a total settlement value of \$40 million. The states alleged that the airlines used their central computer reservation systems to send signals to each other about raising and lowering fares, resulting in travelers paying more than they should have for airline tickets. Montana state and local government agencies received over \$370,000 in discounts during the settlement period. A companion class-action suit resulted in \$458 million in discount coupons to private consumers.

Insurance Antitrust Litigation: Montana joined this litigation in the late 1980s and was an active participant for many years before the case finally settled in 1994. With 19 other states, Montana alleged that 32 foreign and domestic insurers, reinsurers, brokers and trade organizations had boycotted other insurers, resulting in a decrease in the availability and affordability of commercial general liability insurance during the mid-1980s. The alleged anticompetitive practices harmed primarily state and local government purchasers, who buy that type of insurance to insure against third-party liability and pollution claims. After 6 years of litigation, the insurance companies agreed to pay \$36 million, 2/3 of which was used to create the Public Entity Risk Institute, providing state and local governments with resources aimed at risk management, training, liability reduction and education. Another \$5.2 million was used to establish and maintain a national risk management database to gather previously unavailable insurance information. Most of the money that has been deposited in the Attorney General's antitrust revolving account is a result of this settlement, since Montana was reimbursed for costs and attorneys' fees based on its longstanding participation in the case.

Amendments to House Bill 166
Third Reading Copy (blue)

Requested by the Department of Justice
For the Senate Finance and Claims Committee

Prepared by Beth Baker
April 8, 1997

1. Title, line 9.
Strike: "2-15-501,"
2. Page 1, line 22, through page 4, line 2.
Strike: Section 1 in its entirety
Renumber: Remaining sections.

Statement of Montana Telecommunications Access Program
To the Senate Committee on Finance and Claims
by Dan Pouliot, Director - April 10, 1997

Mr: Chairman and members of the Committee. For your record, my name is Dan Pouliot and I am the Director of the Montana Telecommunications Access Program.

The MTAP Committee respectfully requests that this Committee consider amending HB 166 to leave the MTAP funding as it is under current law.

MTAP is funded by a line charge of ten cents per month assessed on all phone lines similar to the assessment for the 911 program. The program provides for specialized telephone services enabling the general population, hard of hearing, speech impaired, and deaf to communicate with one another. These funds are assessed for this special purpose and in our view should be used for that purpose.

HB166, in sections 48 & 49, pages 45 & 46, proposes to close the earmarked account and shift the ten cent monthly fee collected from statewide telephone users to the state general fund.

The result of this legislation would transfer a projected June 30, 1997 fund balance of \$334,318 in this account to the general fund.

Relay services are provided under a 3 year contract executed by the MTAP Committee with Sprint. The MTAP has a contractual liability which has to be met over the next biennium. The contract provides for a cost based on a per minute or unit cost.

Relay usage is difficult to predict and is in an unstable growth environment resulting in traffic projections not always being accurate.

Based on the experience of MTAP, it is our position that it is in the best interest of the service to leave fund management in the earmarked account, rather than change to the general fund.

For instance, actual relay services in the last eight months have increased, further reducing funds available for meeting the contractual obligation if transferred to the general fund.

We have prepared an amendment which is attached to this statement for the Committee's consideration. Thank you for this opportunity to express MTAP's views on this matter.

Amendment to House Bill No. 166
Third Reading House Copy

For the Senate Committee on Finance and Claims
Prepared by MTAP
April 10, 1997

1. Title, line 14.

Strike: "53-19-310,53-19-311,"

2. Page 45, line 26 through page 46, line 22. Strike: "Sections 48 & 49 in their entirety." Renumber: subsequent sections.

- End -

Rationale: Amendment leaves surplus funds in Montana Telecommunications Access Program (MTAP) for specialized telephone services enabling the general population, hard of hearing, speech impaired, and deaf to communicate with one another. MTAP is funded by a line charge of ten cents per month assessed on all lines similar to the assessment for the 911 program. These funds are assessed for this special purpose. The MTAP budget includes expenditures of the fund balance over the next biennium.

MTAP relay service is provided by Sprint on a three year contract (renewable for two additional years) on a per call cost basis. The volume of calls is not always predictable and has experienced significant growth since December 1996. Due to the unpredictability, the anticipated fund balance could be expended prior to the end of the biennium.

Amendment to House Bill No. 166
Third Reading House Copy

SENATE FINANCE AND CLAIMS
EXHIBIT NO. 40
DATE 4/10/97
BILL NO. HB 166

For the Senate Committee on Finance and Claims
Prepared by MTAP
April 10, 1997

1. Title, line 14.
Strike: "53-19-310,53-19-311,"
2. Page 45, line 26 through page 46, line 22. Strike: "Sections 48 & 49 in their entirety." Renumber: subsequent sections.

- End -

Rationale: Amendment leaves surplus funds in Montana Telecommunications Access Program (MTAP) for specialized telephone services enabling the general population, hard of hearing, speech impaired, and deaf to communicate with one another. MTAP is funded by a line charge of ten cents per month assessed on all lines similar to the assessment for the 911 program. These funds are assessed for this special purpose. The MTAP budget includes expenditures of the fund balance over the next biennium.

MTAP relay service is provided by Sprint on a three year contract (renewable for two additional years) on a per call cost basis. The volume of calls is not always predictable and has experienced significant growth since December 1996. Due to the unpredictability, the anticipated fund balance could be expended prior to the end of the biennium.

SENATE FINANCE AND CLAIMS

EXHIBIT NO. 41

DATE 4/10/97

BILL NO. HB 166

Amendments to House Bill 166
Third Reading Copy (blue)

Requested by the Department of Justice
For the Senate Finance and Claims Committee

Prepared by Beth Baker
April 8, 1997

1. Title, line 9.
Strike: "2-15-501,"
2. Page 1, line 22, through page 4, line 2.
Strike: Section 1 in its entirety
Renumber: Remaining sections.

Amendments to House Bill No. 166
Third Reading Copy

Requested by Senator Swysgood
For the Committee on Finance and Claims

Prepared by Roger Lloyd, LFD
March 27, 1997

1. Page 11, line 28.

Strike: "cash balance that is unspent"

Insert: "unreserved fund balance"

2. Page 22, line 14.

Following: "~~homes.~~"

Insert: "Cigarette taxes collected under the provisions of 16-11-111 must be allocated as follows:"

3. Page 22, line 15.

Strike: "UNDER THE PROVISIONS OF 16-11-111"

4. Page 22, lines 19 through 21.

Following: "(2)"

Strike: remainder of lines 19 through 21.

5. Page 22, line 22.

Strike: "(A)"

Strike: "82.17%"

Insert: "The amount of 73.04% must, in accordance with the provisions of 15-1-501, be deposited"

6. Page 22, line 23.

Strike: "; and"

Insert: "."

7. Page 22, line 24.

Strike: "(B)"

Insert: "(3)"

Strike: "17.83%"

Insert: "The amount of 15.85% must, in accordance with the provisions of 15-1-501, be deposited"

Explanation: This amendment: 1) clarifies the type of fund balance of a coal tax allocation that is deposited to the general fund; and 2) clarifies the percentage allocations of the cigarette tax by expressing each allocation as a percentage of the total collections, rather than as a percentage of a remainder.

Amendments to House Bill No. 166
Third Reading Copy

Requested by Senator Swysgood
For the Committee on Finance and Claims

Prepared by Roger Lloyd, LFD
April 7, 1997

1. Page 8, line 4.
Strike: "6.91%"
Insert: "7.48%"

2. Page 59, line 7.
Strike: "3.53%"
Insert: "3.76%"

Explanation: This amendment more accurately reflects the percentage of the emergency telecommunications fee to be deposited to the general fund to equal the amounts of general fund appropriated in HB 2 for administrative expenses.

{Legislative Fiscal Division

444-2986}

Editor Approved

SENATE FINANCE AND CLAIMS

EXHIBIT NO. 44

Amendments to House Bill No. 166 DATE 4/10/97

Third Reading Copy

BILL NO. HB 166

Requested by Senator Swysgood
For the Committee on Finance and Claims

Prepared by Roger Lloyd, LFD
April 9, 1997

1. Page 8, line 9.

Following: "~~appropriated.~~"

Insert: "The distribution of money in the 9-1-1 emergency telecommunications account as required by 10-4-302 is statutorily appropriated to the department of administration as provided in 17-7-502."

2. Page 29, line 22.

Following: "~~10-4-301;~~"

Insert: "10-4-301;"

Explanation: This amendment retains the statutory appropriation to the Department of Administration for distribution of emergency telecommunication tax revenue.

{Legislative Fiscal Division

444-2986}

DATE 4/10/97

SENATE COMMITTEE ON Finance & Claims

BILLS BEING HEARD TODAY: HB 169, HB 166, HB 281,
HB 17

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
JOHN H. WIGENT	MTNG	HB 17	✓	
GERALD F. TRAXINGER	MT ANG	HB 17	✓	
ROGER K. LARSEN	Mont Air Natl Guard	HB 17	✓	
Donald N. Reichert	MT Air Natl Guard	HB 17	✓	
JOSEPH S. FOSTER	MT Army Natl Guard	HB 17	✓	
Doris Romanisko	MT Operating Eng JATT	HB 281	✓	
THOMAS WENRHEIM	E.V.O.E. APPRENTICESHIP	HB 281	✓	
DAN POULIOT	MTA P	HB 166		✓
KELLY A. JENKINS	PUBLIC EMPLOYEES RETIREMENT Bd	HB 169	✓	
DARRELL HOLZEN	MT ST AFL-CIO	HB 281	✓	
Beth Baker	Dept of Justice	HB 166	✓/amend	
Anthony Morrison	MT ARMY NATL Guard	HB 17	✓	
KEVIN COLLINS	MT ARMY NATL Guard	HB 17	✓	
William Jones	MT Operating Eng JATT	HB 281	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE _____

SENATE COMMITTEE ON _____

BILLS BEING HEARD TODAY: _____

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
Jelly Poyley	210th PSC	HB 17	X	
Kruss Kunk	MTAP - DPHHS	HB 166		X
Ben Howard	MTAP-	HB 166		X
ROGER HACAN	OFFICER & ENLISTED ASSOC OF N.C. OF AUT	HB 17	X	
FRANK FISSUS	MI JOINT CARPENTERS APPRENT. TRAINING CENTER	HB 281	X	
Jerry Driscoll	mt Building Trades	HB 281	X	
Charles Kunkin	H.O. #68	HB 281	X	
Terry Teidevan	FERB	HB 169	X	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY